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Kate O'Beirne on Unsung Heroes in Iraq

NATIONAL REVIEW

The Litigation Devil

New York attorney general Eliot Spitzer is the most destructive politician in America

by Ramesh Ponnuru

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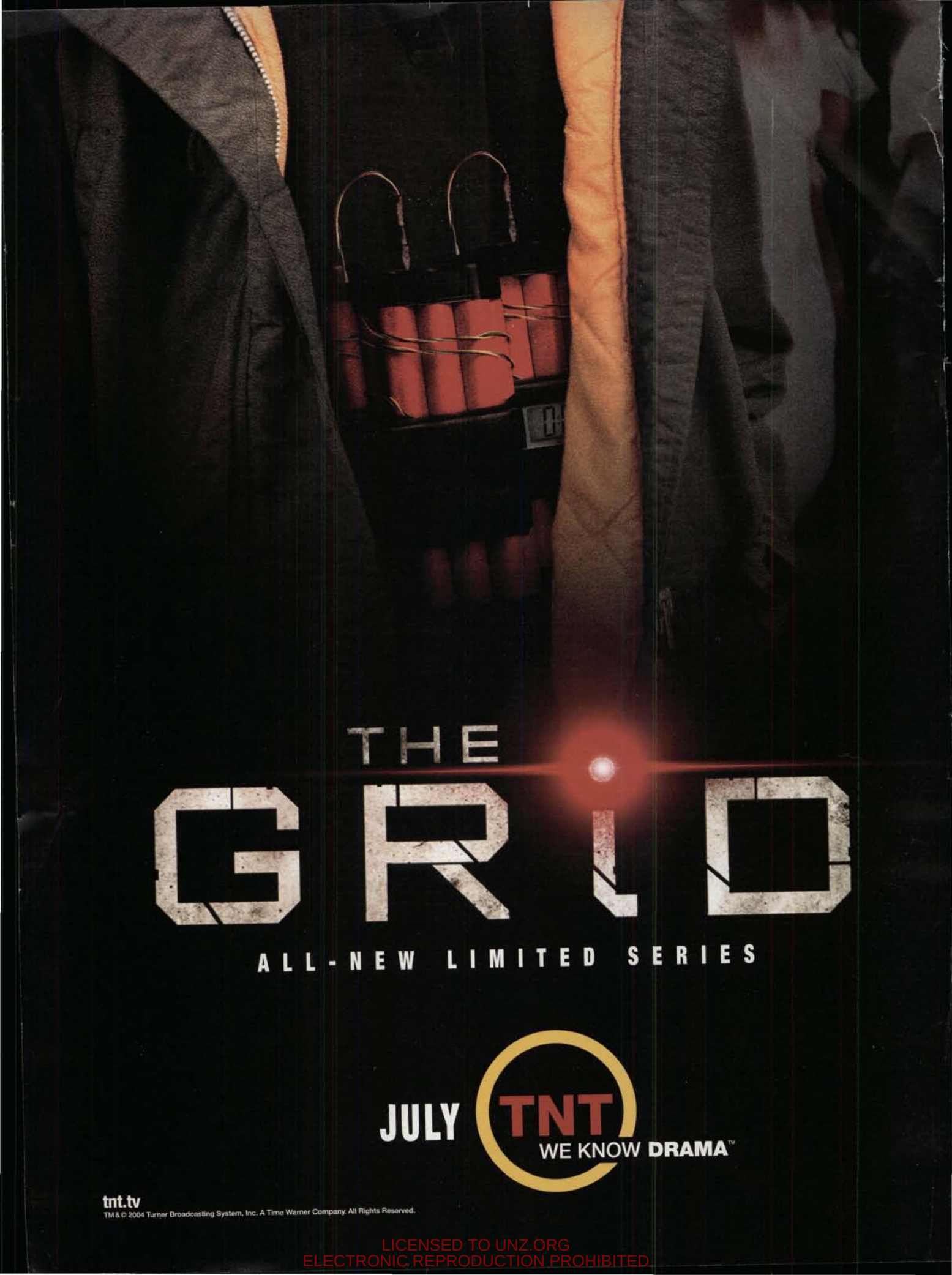

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JUNE 14, 2004 VOL. LVI, NO. 11

NATIONAL REVIEW

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■ **COVER STORY**

Meet Eliot Spitzer

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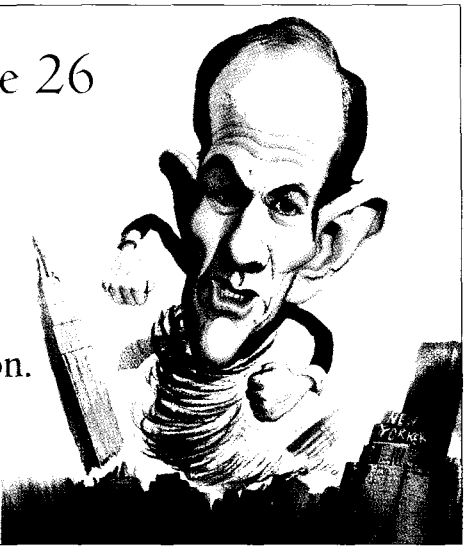
Eliot Spitzer, the aggressive attorney general for New York, cuts a large figure. He has gone after gun makers, tobacco companies, Internet spammers, drug companies, Microsoft, brokerages, predatory lenders, mutual funds, power plants, and the Bush administration. His activism has earned him an exceedingly good press. But has it advanced the common good? There is room for doubt. *By Ramesh Ponnuru*



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letters to the editor

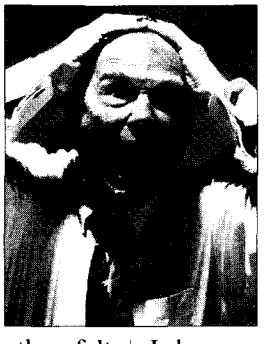
THE CRIME SCENE

William F. Buckley Jr. is right to decry the silliness of the slogan that "government should stay out of the bedroom" ("Bedroom Rights," May 31). Many liberals were instrumental in getting the government into the bedroom when they worked for legislation to treat forced sex in marriage as rape. Crimes are the proper business of the government regardless of the location in which they take place or the relationship between aggressor and victim.

Denise Noe
Atlanta, Ga.

JITTERS ON THE RIGHT

Ramesh Ponnuru, as always, is right on the money when it comes to Bush hatred on the left ("Why They Hate Him," May 17). Elitist disdain accounts for a lot of it, as does a penchant for conspiracy theories. But what about the dramatic erosion of confidence in Bush on the right? Recently, I attended a not-so-happy happy hour with a gaggle of young conservatives. I was struck by the fact that, with few exceptions, those gathered had lost all confidence in President Bush, and many were even considering a vote for the Boston Fog Machine—not because they felt excluded, or because they saw themselves as too intelligent or sophisticated to root for the Red State Rube (they'd been doing it for years), but because they felt palpably betrayed.



There were, of course, the partisans of very small government, who've been enraged for some time now, but they were outnumbered by the pragmatists who accept that a governing party has to govern. The isolationist fringe was, as far as I could tell, absent. The sense of betrayal hinged entirely on President Bush's dispiriting failure to reckon with the gravity of the challenge the United States faces in Iraq. To call this sentiment "hatred" would be an injustice, but there was an intensity to it that I hadn't seen earlier on. These young men and women were not irrational or hotheaded. They've defended the administration against charges of corruption, malfeasance, and, until very recently, incompetence. But above all else, they—I should say "we"—believe in using American power effectively, responsibly, and, when possible, magnanimously, to advance American interests. The general feeling was, believe it or not, "If Bush can't get the job done, perhaps we ought to give Richard Holbrooke a try." This is new. The administration, and its increasingly beleaguered defenders, should take note.

Reihan Salam
Washington, D.C.

GRAND SLAMMER

Jay Nordlinger's review of the movie on Bobby Jones was masterfully done ("Our Bobby," May 31). In 1941 I was a student at Marist College High School in Atlanta, where Jones's son, Bobby III, was also a student. Jones had been called to active duty as an Army Air Forces reserve captain. He would drop by the school to pick up his son, and he was always the unassuming and caring father who would tell Father Dagneau, the school president, of some new charity he was working on. I always remember Jones as a very handsome man in his Army uniform, disclosing not a hint of the world idol he had already become. As Nordlinger pointed out, Jones was truly one of a kind. There will never be another to equal him.

Frank Dukes
Purcellville, Va.

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No Child Left Behind: How to Ace Those Tests

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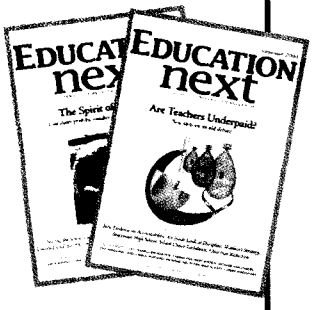

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One reason that the No Child Left Behind (NCLB) Act is important and promising is that it focuses on reading. By the same token, one reason that NCLB sometimes distorts education for the worse is that it focuses on reading. The paradox arises from the fact that **our schools do not yet fully understand what they need to do to raise reading scores**. Many have accepted that phonics is best taught systematically. That's a plus. But goaded by the new law, many schools are intensively doing counterproductive things like strategy exercises and test prep that can not significantly improve reading comprehension.

Reading is the key to most academic achievement. Hence the emphasis of NCLB is welcome, as is its insistence on accountability through student tests. For, despite the chorus of complaints about standard reading tests, they are very reliable: they correlate highly with each other, and they accurately measure real-world reading ability.

The negative, unintended consequences of NCLB have emerged, not so much from the law itself but from the failure of our schools of education to instruct teachers and administrators in the true nature of reading achievement. Anxious educators have turned elementary schools into test-prep factories. In California, for example, the state has mandated that students spend at least 150 minutes each day on reading in the early grades. A great deal of this time is spent on trivial tales and on constantly repeated content-poor exercises in "classifying" and "finding the main idea." The desperate response of the schools to test pressure has been to excise history, science, and the arts and replace them with still more such exercises in reading. This is a futile strategy since reading achievement depends on broad knowledge of history, science, and the arts. The dull exercises in "comprehension strategies," which have been shown to be largely useless, take up great stretches of time in all the reading programs. Hence the small initial rise in reading scores yielded by these intense, misguided efforts will level off to everyone's disappointment. Reader, you first read that prediction here!

There is a way to avoid this self-defeating consequence of focusing on "reading." Within the long stretches of time allocated to reading, **schools should start teaching a solid, cumulative curriculum that replaces the time now being devoted to trivial content and fruitless comprehension exercises**. This approach to reading would spend long, coherent stretches of time on such topics as the early civil rights movement, the biology of farming, the nature of magnetism, and the geography of Africa.

Under this new sort of reading instruction (which is really very old) students would not be prepped for reading tests per se because, beyond learning how to take tests in general, there is no way you can specially prep for a reading test. If strategic test prep worked, our students' scores would now be a lot better than they are. No, the way to prep for a reading test is to gain broad knowledge. The classroom tests we give our students should be tests of the coherent knowledge they are being taught. Giving them that kind of test semester after semester will gradually raise their scores on standard reading tests. In time it will raise them dramatically. In fact, there is no other way of raising those reading scores dramatically.

—E. D. Hirsch Jr.

E. D. Hirsch Jr. is a distinguished visiting fellow at the Hoover Institution and a member of the Koret Task Force on K–12 Education. Hirsch is also the founder and chairman of the nonprofit Core Knowledge Foundation.

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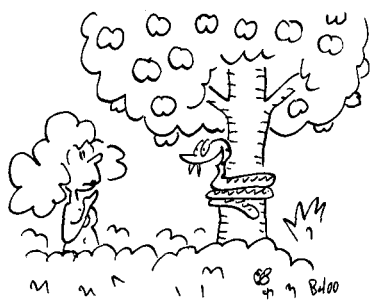

"Go ahead, take one—think of it as shopping."

■ In *Time*/CNN poll, President **Bush** earns 46 percent approval rating. . . . Zogby poll: **John Kerry** 47 percent, Bush 42 percent, **Ralph Nader** 3 percent. . . . Vice President **Cheney**, at U.S. Coast Guard Academy: "We will engage the enemy, facing him with our military in Afghanistan and Iraq today so that we do not have to face him with armies of firefighters, police, and medical personnel inside our own country." . . . Former New York City mayor **Rudy Giuliani** (R.) testifies before 9/11 panel: "Our enemy is not each other but the terrorists who attacked us, murdered our loved ones, and continue to offer a threat to our security, safety, and survival." . . . Bush nominates Federal Reserve chief **Alan Greenspan** for fifth term.

■ Kerry, to AP: "When **Bill Clinton** left office, not one young American was dying in war anywhere in this world." . . . Kerry: "What has happened is not just something that a few, you know, privates and corporals or sergeants engaged in. . . . This is something that comes out of an attitude about the rights of prisoners of war. It's an attitude that comes out of how we went there in the first place, an attitude that comes out of America's overall arrogance as policy." . . . Kerry: "I am not a protectionist." . . . In political ad, League of Conservation Voters calls on Bush to "stop the drilling" off Florida's shore—even though there is no oil drilling there. . . . Kerry says Bush should divert oil from the Strategic Petroleum Reserve to reduce gas prices. . . . In 2000, Kerry opposed releasing oil from reserve: "It would take months for the oil to get to the market." . . . Gov. **Bill Owens** (R., Colo.), on CNBC: "The Democratic party and John Kerry, in particular, have never, ever, over 20 years that John Kerry's been in the Senate, pushed for more domestic production. They've opposed oil, they've opposed natural gas, they've opposed coal, they've opposed nuclear. And over the years President Bush and others have said if we don't increase domestic supply, we're going to be at the mercy of foreign suppliers. That's what's happening today."

■ House minority leader **Nancy Pelosi** (D., Calif.) calls Bush "incompetent leader," adding: "In fact, he's not a leader. He's a person who has no judgment, no experience, and no knowledge of the subjects that he has to decide upon." . . . House speaker **Denny Hastert** (R., Ill.): "Was it incompetence that put **Saddam Hussein** in jail? Was it incompetence that disbanded the Taliban? Was it incompetence that spurred the fastest economic growth rate in 20 years?" . . . **Michael Ocello**, head of strip-club association: "We must do everything within our power to help ensure that Bush and his ultra conservative administration are removed from the White House. If we are to survive, we must act now."

■ Sen. **Zell Miller** (D., Ga.): "You can't make a chicken swim and you can't make John Kerry anything but an out-of-touch ultraliberal from Taxachusetts." . . . Sen. **Blanche Lincoln** (D., Ark.) says she won't campaign actively for Kerry, in *Arkansas Democrat-Gazette*. . . . In Alaska, Lt. Gov. **Loren Leman** (R.) endorses **Mike Miller**'s primary challenge against Sen. **Lisa Murkowski** (R.). . . . Rep. **Johnny Isakson** continues to lead race for Georgia's GOP Senate nomination, but pro-lifers criticize his vote to permit abortions in overseas military hospitals. . . . In *Indianapolis Star* poll, former OMB director **Mitch Daniels** (R.) leads Gov. **Joe Kernan** (D., Ind.), 46 percent to 40 percent. . . . In poll of Pennsylvania voters, 55 percent disapprove of Sen. **Arlen Specter** (R., Pa.), but he leads Democratic challenger Rep. **Joe Hoeffel**, 52 percent to 40 percent. . . . "We must reject isolationism and recognize that our current economic problems are a direct result of our own misguided policies, which are sucking the life out of American businesses," says Rep. **Jim DeMint** (R., S.C.), running for GOP Senate nomination. . . . After Virginia Republicans help pass $1.5 billion tax increase, their likely candidate for governor in 2005, **Jerry Kilgore**, says tax hike is not necessary.

■ *Washington Post* analysis finds 62 percent of federal workers earning merit bonus or other cash award in 2002, with median value of $811. . . . **Phyllis Schlafly**, on CNBC: "I particularly am upset about the way the feminists have taken, really, large strides in the military, and now we see that in the pictures. And the women had no business guarding Iraqi prisoners." . . . In *Newsweek* poll, 28 percent say they support marriage rights for gays, 23 percent support civil unions, and 43 percent oppose any legal recognition. . . . Vermont becomes ninth state to approve use of medical marijuana.

■ Russia indicates it will support Kyoto global-warming treaty if EU endorses its bid to enter WTO. . . . Soccer committee disqualifies Libya's bid for 2010 World Cup because it refused to say an Israeli team would be allowed in the country to participate. . . . U.N. Food and Agriculture Organization say genetically modified crops help poor farmers and are safe to eat. . . . New York becomes finalist to host 2012 Summer Olympics, but many observers believe Paris will prevail in decision due on July 6, 2005.

■ **Jay Leno**: "Yesterday John Kerry and Ralph Nader met face-to-face. It was a historic meeting. Astronomers said today their meeting actually created what is called a 'charisma black hole.'" **NR**

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THE WEEK

■ Kerry-McCain '04? All right, but what's Kerry going to do to appeal to Republicans?

■ The Kerry campaign is reportedly toying with the idea of holding a non-nominating Democratic Convention in Boston at the end of July. It should make for a great acceptance speech—or is that pre-acceptance speech? By delaying his formal nomination, Kerry will be able to prolong the time during which he can raise and spend money without facing legal restrictions. Here's a line for that speech: "I was for campaign-finance reform, before I was against it."

■ Under court order, Massachusetts began to issue marriage licenses to same-sex couples. The first couple to be married in Provincetown says theirs is an open marriage. One of the partners, Jonathan Yarbrough, a bisexual, told the *Boston Herald* that a lifetime commitment is "overrated" and that it is "possible to love more than one person and have more than one partner—not in the polygamist sense." No doubt many of the same-sex couples getting married intend to stay together, and faithful, for life. But there is a certain kind of sense to Yarbrough's view. At the root of the older conception of marriage, now rejected by the Massachusetts courts as outmoded, was the biological joining together of two people: a joining that could in principle be achieved only by the combination of one man and one woman. For the Massachusetts courts, marriage is primarily an emotional commitment. It is mere sentimentality and prejudice that insist that such bonds can involve only two people. There is no principled reason to reject "open" marriage, an idea that is hardly even comprehensible on the older view of things, nor any principled reason to aspire toward forever. The law is a teaching instrument, and some people are already learning the new lessons. If the Constitution is not amended to stop them, courts will continue to unravel the institution.

■ More or less lost in the media's unending feast over revelations at Abu Ghraib was news of an important discovery in Iraq: Small amounts of the deadly nerve agent sarin—one of the types of weapons cited as a reason for toppling Saddam—were dispersed when an old Iraqi artillery shell fashioned into a homemade bomb was partially detonated near a U.S. military convoy. Administration officials and weapons experts greeted the news with caution: We don't yet know whether the shell is part of a larger stockpile, and while the development may be an important one (particularly when coupled with the recent finding of a mustard-gas shell near the Syrian border), it's not the smoking gun that some have been waiting for. But the news does further discredit the "Bush lied" crowd.

■ The 9/11 Commission moved to New York City, where it suffered its first rebuke. Former Navy secretary John Lehman said that the communications of the city's public services are "a scandal," and that its disaster-response plans are "not worthy of the Boy Scouts." Former Gotham officeholders took offense at that, none more eloquently than Rudolph Giuliani: "Our enemy is not each other but the terrorists who attacked us, murdered our loved ones, and continue to offer a threat to our security, safety, and survival . . ." In the face of a disaster as surprising and great as 9/11, all systems fail. The search for scapegoats really springs from a fantasy that the world can be safely under our control, empty of enemies who are as resourceful as they are hate-filled. To this extent, the dudgeon of New York officialdom was justified. But consider ourselves warned. More is coming, and next time will be different. Giuliani made this point too: "We have to channel our anger toward doing all that we can to prevent and ameliorate any further attack."

■ The Bush White House would like you to believe that its recent deal with Senate Democrats on judges was not a pres-

See page 8

ROMAN GENN

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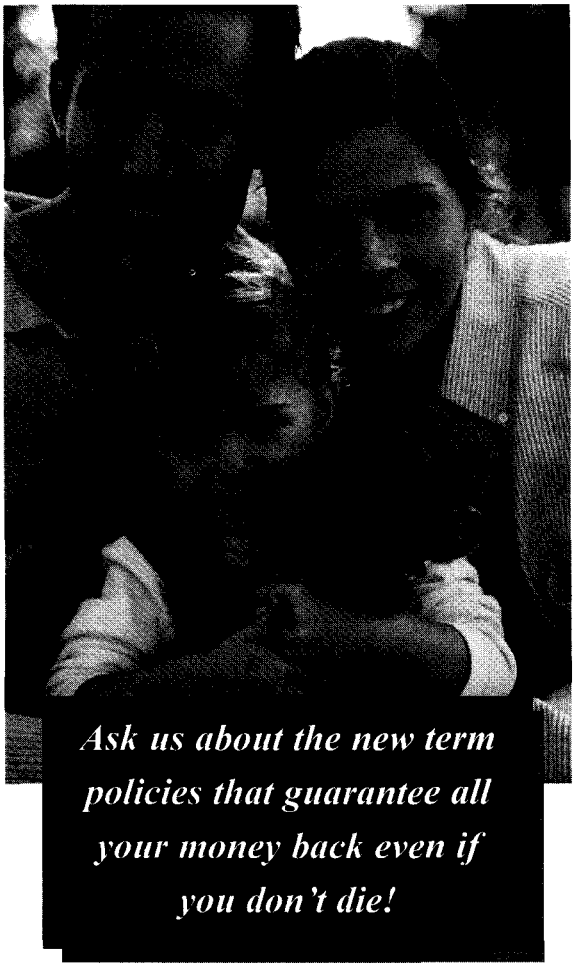

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THE WEEK...

idential surrender. After Democrats launched unprecedented filibusters of six of Bush's appeals-court nominees, the president used his recess appointment power to put two of those nominees on the bench. Democrats cried foul (even though Bill Clinton also made recess appointments). Senate minority leader Tom Daschle threatened to hold up every Bush nominee—not just judges—until the president agreed not to use his recess appointment power for judges. It was an outrageous demand. Yet on May 18, the president caved. He will make no recess appointments this year. Democrats agreed to allow Senate consideration of 25 non-controversial Bush judicial nominees, which is how the White House can spin the deal as a success. But Democrats are not required to end any of the filibusters, and may in fact begin more, if they choose (and trust us, they will choose). Democrats were the clear winners. This is a White House that has vigorously protected presidential prerogatives. It chose, for example, to go to the Supreme Court rather than reveal certain information about Vice President Cheney's energy task force. Yet in this case, the president gave away a key constitutional authority. Bad idea.

■ In a May 7 op-ed, Sen. Fritz Hollings, a Democrat from South Carolina, denounced the Iraq war as a Bush ploy to secure Israel, which he identified as part of a larger Bush ploy to secure re-election by wooing Jewish voters. Behold Hollings's insight into the Iraq war: "[Bush] came to office imbued with one thought—re-election. Bush felt . . . spreading democracy in the Mideast to secure Israel would take the Jewish vote from the Democrats." Well. If Iraq was just a plot to keep Bush in the White House, it was not terribly cunning. The president's approval rating has dropped more than 10 points since the beginning of the war; Jews make up less than 2 percent of the U.S. population—not exactly a huge voting bloc. The war does not seem to have put Florida reliably in Bush's column. The senator is retiring this year, and not a term too soon.

SUMER IS ICUMEN IN

The Reform party nominates Nader.
Like cicadas, the kooks are in voice.
Feeling better, Karl's color's returning.
Kerry's French is, off camera, choice.
Up in Chappaqua, Clinton feigns horror.
In the Senate, the Missus cluck-clucks.
In a towering tizzy, McAuliffe,
Off the record, remonstrates, "This sucks."

—W. H. VON DREELE

■ When Colin Powell was taping a series of satellite interviews from Jordan, an aide tried to cut off a session with Tim Russert of *Meet the Press* because the scheduled ten minutes had stretched to thirteen. Powell answered a last question anyway, but Russert was mucho miffed. "I've been in countries where staffers pull the plug on people," he said on CNN. "This is the United States of America. It really is unacceptable." We've been in a country where TV big feet think they incarnate the Bill of Rights, and the laws of Nature: That would be this one.

■ Michael Moore's *Fahrenheit 9/11*, a propaganda film dedicated to discrediting the War on Terror, won the Palme d'Or at the Cannes Film Festival. One can relish Christopher Hitchens's jibe at Moore's popularity abroad. Europeans, said Hitchens, "think Americans are fat, vulgar, greedy, stupid, ambitious and ignorant and so on. And they've taken . . . as their representative American someone who actually embodies all of those qualities." One's relish must be tempered, however, by the reflection that Europeans do indeed think of Moore as a shrewd and honest analyst of America and its discontents. Moore's books are best-sellers here, but they take their place in a scrum of agitated political best-sellers that cover the spectrum. In Europe, he stands alone, as Gospel. Remember when alienated American writers used to look like Henry James?

■ Susan Sontag, in an essay for the *New York Times Magazine* on Abu Ghraib ("Regarding the Torture of Others," May 23), says some true things about the unquenchability of images in the digital age, mixed in with the sweeping assertion that the torture flowed organically from the Iraq war, and from the War on Terror in general ("the photographs are us"). But she is both too sweeping, and not sweeping enough. Torture and other war crimes flow from war, and have marked every war we have ever fought, or that has been fought over us, from the French and Indian wars onwards. Moral men recognize this, try to prevent it, and punish the guilty when crimes are committed anyway, as the U.S. Army is now doing. To say, of Abu Ghraib, that "the photographs are us" makes as much sense as saying, of Susan Sontag, that "folly is us."

■ Oral arguments were heard on May 20 in the case of five Norwood, Ohio, property owners whose homes and small businesses are in danger of being confiscated and handed over to a private real-estate developer. The Constitution recognizes governments' ability to exercise the power of "eminent domain": the power to confiscate private property for public use so long as its owners are justly compensated. But the developer in this case—who refuses to purchase individual plots from owners willing to sell them—has persuaded the Norwood City Council to blight the entire area and try to force some of its inhabitants out. According to the Institute for Justice, the libertarian public-interest law firm representing the property owners, Ohio is rife with eminent-domain abuse: From 1998 to 2002, at least 400 Ohio properties were condemned or threatened with condemnation for private use. In the same period, more than 10,000 such cases were recorded across the country. Eminent domain is a legitimate power of government, but it should not be allowed to degenerate into a license to steal.

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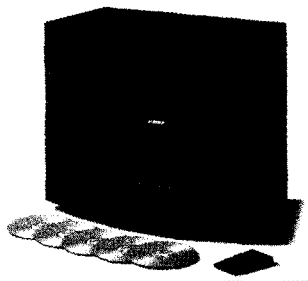

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THE WEEK...

■ In common with most other states, Kansas subsidizes tuition in state colleges for state residents. Fifteen credit hours at Kansas State University currently costs a Kansas resident $1,755, compared with $5,700 for undergraduates from outside the state. Now Governor Kathleen Sebelius, a Democrat, has signed legislation passed by the state's Republican-controlled legislature to provide the same subsidy to illegal aliens who wish to study at state colleges, and who have attended a state high school for three years. This means that illegal immigrants are to be given preference over U.S. citizens from out of state. Perhaps even more bizarrely, they are to be given precedence over *legal* aliens. A foreigner who, after satisfying the proper immigration requirements and obtaining a student visa, shows up at a Kansas state college, will have to pay full out-of-state tuition. Apparently nothing is too good for illegal aliens, the liberals' newest client group. It can only be a matter of time before they are given the vote.

■ Vermont became the tenth state (the others are Alaska, Arizona, California, Colorado, Hawaii, Maine, Nevada, Oregon, and Washington) to permit some form of the medical use of marijuana. So this sensible reform of the drug laws has succeeded in the libertarian west, the green west, New England, and the largest state in the nation. Legally, state medical-marijuana laws are moot because federal prohibitions trump them. But they show the state of popular sentiment, even when it is opposed by the political class.

■ In an upset, India's Congress Party won the national elections. The party leader, Sonia Gandhi, then dealt the world

Picture This

SURE, I was outraged by the Abu Ghraib photos. In two senses. At first I was infuriated by what the photos depicted. But as time has gone by, my outrage over the photos has been eclipsed by outrage at the photos themselves. I am now more angry that the photos were taken and released than I am that the acts took place.

This is not to say that the abuses at Abu Ghraib should be dismissed. In the grand scheme of things, however, the publication of the photos did far, far greater harm than the obscene nude pretzels, canine intimidation, and enforced onanism of Abu Ghraib. I can conceive of a context in which it is forgivable that the chain of command countenanced forcing Iraqi POWs to wear underwear on their heads. I cannot think of a context in which it is forgivable that the same military leadership allowed photos of such acts to make it to the public. Humiliating a detainee for information is defensible. Isolated instances of humiliation by sadistic guards are probably inevitable—and deserve punishment. But sexually humiliating the *entire* Arab world—which already has a Pyramid-of-Giza-sized chip on its shoulder over the fact that it is getting ever smaller in the rearview window of American civilization—is unforgivable and the real reason why heads should roll off of epauletted shoulders. Why in the world were guards allowed to take pornographic—or any other kind—of photos at a secure military installation for their personal use?

In other words, the typical Washington logic has been turned on its head: Here the scandal is not the crime, it's the lack of a cover-up. And in this regard, the American media deserve as much blame as the military.

When younger members of the press tried to snap a photo of FDR in a wheelchair, seasoned members of the press corps would block the shot or bump the photographer. There are over 35,000 known pictures of FDR. Exactly two exist of him in a wheelchair. Why? Because the press understood that even though FDR's polio constituted significant information, the damage to American morale, and hence to the war effort, outweighed the right to know (it also helped that FDR's press corps were largely a band of lickspittles).

No one is suggesting that the press shouldn't have reported the story of Abu Ghraib. But why the rush to show the photos? Indeed, why rush so fast that you actually run fakes? The *Boston Globe* and the (British) *Mirror* both ran fake pictures of abuses. When I first suggested that the press should have shown more restraint, CNN's Aaron Brown objected, "You don't appreciate what happened in that prison until you see it." That's true. But if full appreciation is the standard for showing shocking photos, it's a very new one. To date, the media haven't shown a partial-birth abortion—and showing footage of that would go a long way toward settling a national debate. Americans were also denied the opportunity to "appreciate" the beheading of Nick Berg—a far cry, needless to say, from being forced to wear panties on your head.

It seems as though the American press not only thinks that journalistic objectivity requires indifference to whether America wins or loses wars—a sharp departure from the views of America's greatest wartime journalists; it actually seems to define journalistic excellence by making victory more difficult.

—JONAH GOLDBERG

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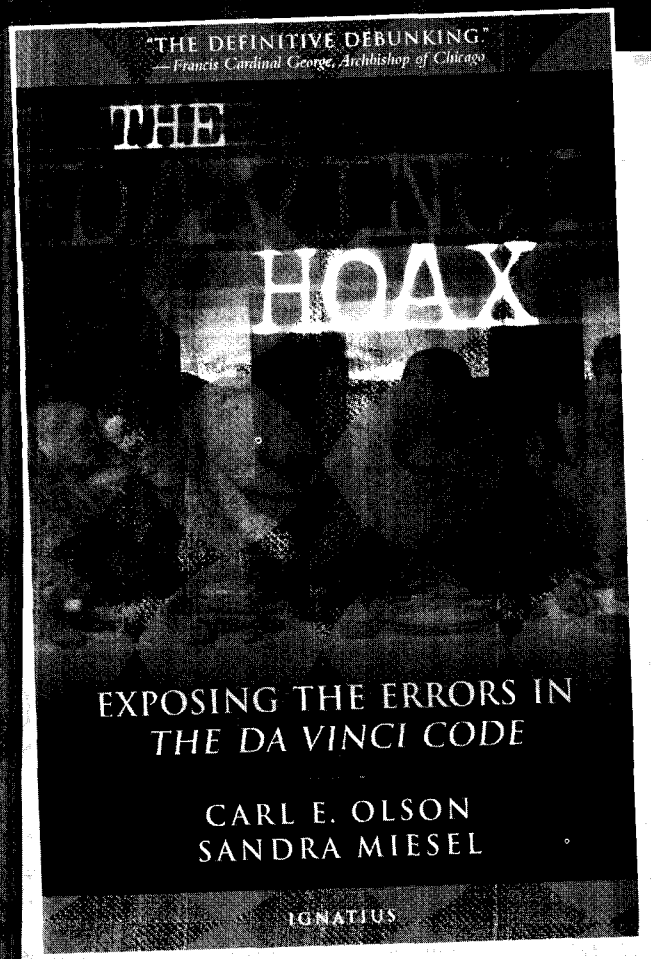
— CARDINAL FRANCIS GEORGE, ARCHBISHOP OF CHICAGO



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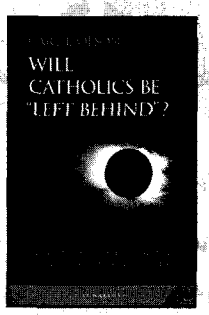

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THE WEEK...

another surprise by declining the post of prime minister. Gandhi was born in Italy, and appears to have concluded that the country should have a leader of unquestioned legitimacy. It was an honorable decision, one that leaves the government in a better position to negotiate with Pakistan. The effect of the elections in two other areas remains in doubt. Although it was Congress that initiated economic reforms in a previous spell in office, the defeated BJP was more associated with free markets. The election result was widely seen as a backlash against globalization. Perhaps it was really a kind of revolution of rising expectations: Markets had lifted millions of rural Indians out of poverty, but not into the "shining" India that the BJP claimed it had created. The markets fell when Congress won. But Congress then took steps to reassure the markets. The man to whom Mrs. Gandhi deferred, Manmohan Singh, has himself been a relative free-marketeer. The conventional wisdom now is that the pace of reform may slow, but will not go into reverse. Then there is the question of relations with the United States, which had warmed under the BJP. India and America have common interests in defeating Islamic radicalism, restraining China, and liberalizing global oil markets. But Indian public opinion opposed war in Iraq, and a fear of being in the American orbit has become a calcified tradition in the Congress party. Let's hope that the world's two largest democracies find a way to become allies.

■ Rafah is a ramshackle spread of housing at the southern tip of the Gaza Strip, right alongside the Egyptian border. That's the trouble. Palestinian terrorists are in the habit of digging tunnels from the Egyptian side, through which to smuggle in arms and explosives. Needless to say, they don't ask permission either from the Egyptians or from the unfortunate people under whose houses the tunnels emerge. So far the Israelis have detected and filled in somewhere between 70 and 90 of these tunnels. It is also their policy to destroy the houses of anyone connected in any way with terrorism. Collective punishment afflicts the innocent along with the guilty, and it's upsetting many, including Yosef Lapid, a Holocaust survivor and an Israeli cabinet minister. If it weren't for the tunnels and the terrorists, the Israelis could leave Gaza as intended, only faster and more safely. The penny might be dropping. Some people in Rafah have actually had the courage to protest about the terrorists who in the first instance are making victims of them and costing them their houses.

■ For some time now, we have been keeping an eye on Jian-li Yang, who visited our offices in the summer of 2001. Since the spring of 2002, he has been a political prisoner in China. Jian-li is, indeed, one of the most famous democrats in the world. A scholar, he holds two Ph.D.'s: one from Berkeley (mathematics) and one from Harvard (political economy). While at Berkeley, he rushed back to China to participate in the Tiananmen Square demonstrations, at tremendous personal risk (obviously). He quickly rose to the top of the Chinese government's blacklist. He went on to establish the Foundation for China in the 21st Century outside Boston. Two years ago, he slipped back into China, to do some investigating. He was arrested, and then vanished from public sight. Jian-li is a U.S. permanent resident, and his wife and two children are American citizens. He finally resurfaced—with ridiculous charges of espionage for Taiwan against him—and was recently sentenced to five years in prison. Barney Frank, the family's congressman, said, "I don't think they [China's rulers] understand what harm they are doing to their desire to be accepted as a leading nation among other nations by this relentless and unjustified persecution of this brave and principled man." It is possible that they understand that they are doing no harm at all—and they *will* do none if no one pays any attention.

■ As an actor and comedian, Bill Cosby enjoys a great deal of popularity. He is not quite so universally esteemed as a public speaker; not, at least, after his comments at a gala event commemorating *Brown* v. *Board*. Said Cosby, of contemporary black values: "These people are not parenting. They are buying things for kids—$500 sneakers for what? And won't spend $200 for 'Hooked on Phonics.' . . . I can't even talk the way these people talk: 'Why you ain't,' 'Where you is.' . . . You can't be a doctor with that kind of crap coming out of your mouth." Well, Cosby will no longer be beloved by far-left race-mongers for what's come out of *his* mouth, but it needed saying nonetheless. That it was Cosby—a longtime contributor to "black causes"—saying it makes the statement all the sweeter, and, we hope, all the more heeded.

■ Bernd Runge, 43, of Berlin, has a very nice life. Named "Media Man of 2003," and reportedly a member of the "jet-set," Mr. Runge is the head of media conglomerate Condé Nast's German operations. The publisher of "lifestyle" magazines *Vanity Fair*, *The New Yorker*, and *Vogue*, Condé Nast has a famously relaxed attitude toward senior staff's business expenses—as we said, it's a very nice life. But Bernd has one small problem: He was a willing and enthusiastic informer for the Stasi, the East German secret police, between 1981 and 1989. In what might have been useful training for Condé Nast's viperish office politics, Mr. Runge, according to his newly released Stasi file, spied on his college pals, his work colleagues, and his friends; indeed, he methodically betrayed pretty much anyone who crossed his path, including his sister, who had attempted to leave the German Democratic Republic. His boss, Jonathan Newhouse, head of Condé Nast International, says these "activities" took place "in the distant past," and declares that "I attach no importance to these reports." We wonder whether Mr. Newhouse would have been quite so understanding had Mr. Runge been caught informing for the Gestapo? We suspect not, somehow.

■ A Mexican TV production company has produced a feature film titled *A Day Without a Mexican*. In the film, all the Mexicans mysteriously disappear from California one day. Ensuing horrors include a U.S. Senator and his wife struggling to locate the peanut butter for their daughter's school lunch (the housekeeper has gone), and unstaffed car washes and restaurants. This has given us some ideas for scripts. Let's see

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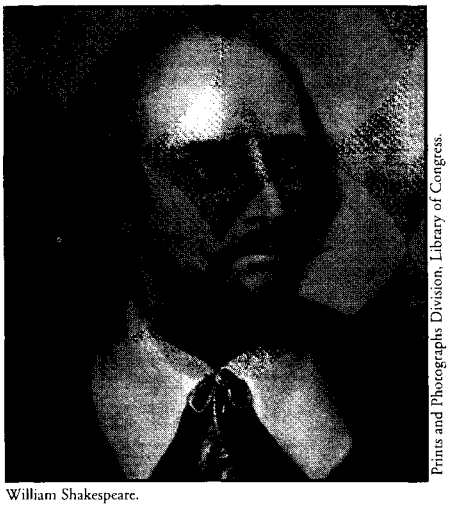

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now. How about a movie titled *A Day Without Los Estados Unidos*, in which Mexicans wake up one morning to find that the continent ends at the Rio Grande? They have no market for their goods, nowhere to export their surplus rural poor, and no one but themselves to blame for the corrupt, decrepit state of their government and economy.

■ Fans of the late, but immortal, James Mason will recall the line from his last movie, *The Shooting Party*, delivered when the Edward Fox character, out on an aristocratic pheasant shoot, has just brought down one of the beaters through an excess of competitive zeal: "You were not shooting like a gentleman, Gilbert." As is well known, the Kennedys, America's own aristocracy, have had considerable trouble with the gentleman thing. It is a pity James Mason could not have been on hand to reprove Kennedy cousin Mark Shriver at Pennsylvania's tony Hill Country game preserve last December, when a stray shot from Shriver's gun mortally wounded Lefty, a champion English springer spaniel. The dog was valued at $15,000. In the true Kennedy spirit, Shriver initially offered only $3,500 in compensation to the grieving owner. Compensation has now been settled to everyone's satisfaction, but Mr. Shriver—a "very sloppy" shooter who "did unsafe things," according to Hill Country's manager—is now banned from the preserve for life.

■ It is wrong, wrong, wrong, for athletes to use performance-enhancing drugs in competition. Everyone agrees on that, don't they? Well . . . sort of. The International Olympic Committee has now ruled that transsexuals may compete in Olympic events as persons of their artificially acquired sex, so long as the necessary surgery has been followed by at least two years of hormone therapy. Which is to say, two years of injecting yourself with body-changing drugs. As Dr. Renee Richards pointed out following the IOC decision: "Sex-reassignment surgery is based on putting materials into your body." Just so; and Dr. Richards should know, having been born Richard Raskind, undergone sex-change surgery, and been allowed to play tennis in the U.S. Women's Open after a sensational 1977 legal case. To anyone who thinks that athletes—or nations that see successful athletes as symbols of patriotic pride—will hesitate to take advantage of the IOC ruling, we commend the memory of those hulking, ursine, bass-voiced East German "female" swimmers. There's the ruling, though: Steroids—No! Estrogen—Fine. If you want your sports team to compete internationally from now on, better hire a couple of molecular biologists.

■ Those unacquainted with the recent—that is, post-1968—history of tennis may wonder why so many of the best women entered in the French championships are injured, otherwise unable to play, or doubtful. All, of course, are in excellent shape, with coaches, trainers, and dietitians. The Williams sisters are hobbled by sprains and recent surgery. Justine Henin-Hardenne, who may have the fiercest will to win in tennis today, is ill. Kim Clijsters withdrew. Men's tennis is less spectacularly wounded, but Juan Carlos Ferrero has a bad wrist, and others are limping. The reason is simple. Imagine if the baseball season lasted all year. Since 1968 and the advent of pro tennis, year-round tournaments have replaced the six-month amateur season. Pro players have continuous contract commitments to play. Their advertising sponsors pay them a fortune to be walking billboards. If you're wearing tight, sexy Zingo and Co. shorts, you better get out there and wear them. All this may be good for the bank account, but it's terrible for tennis.

■ Are we alone in thinking that one of the most wearily depressing minor features of our current national life is the 20-year effort to purge all references to Indian tribes and their martial qualities from the names of college and professional sports teams? Here it comes again. We hear that the University of Iowa has cancelled a baseball game against Bradley University in nearby Peoria, Ill. Directors of the Iowa athletic program realized, surely a bit late in the day, that Bradley's team is nicknamed the Braves—so playing them would violate a 1994 university policy against any non-conference dealings with teams displaying Indian names or mascots. One secondary sadness here is seeing that Iowa, a state of sturdy farmers and heartland values, should be mixed up in this whiny display of manufactured grievance; but the Academic Archipelago is practically a nation of its own at this point. Here comes the inevitable spokes-whiner, Ms. Delonda Pushetonequa, president of the American Indian Student Association at Iowa U.: "I don't like Native American mascots because it's [sic] derogatory." Who cares what you think, you silly young lady? Buckle down to your studies. And since when was "brave" a term of derogation?

■ After ten years on the air, *Friends* finally came to an end. The show was not witty or even especially funny, and its attempt to present Chandler as a one-man Algonquin Round Table was sad. The characters were not interesting. Ross's insipidity made us nostalgic for Alan Alda: It turns out that even models of neutered masculinity are capable of generational decline. There was something insidious about the seemingly nonstop campaign of celebrity journalists to persuade us that the actors really were friends, really were friendly—maybe they were, in some way, *our* friends. Critics, unable to decide whether they wanted the show to cater more or less to the fantasy of eternal dorm life, said that the show was too white and its economics unrealistic. The babies on the show kept popping out, and then disappearing. Yet the show was somehow strangely watchable. If *Seinfeld* was smarter, *Friends* was sweeter. If the characters never quite grew up, they did get a little closer to it. And they sure were pretty.

■ The people of Russia, having freed themselves from the shackles of Soviet puritanism, are now to get their first museum of erotica, to open soon in St. Petersburg. Star attraction in the museum will be the pickled penis of Gregory Rasputin, the "mad monk" of late-Czarist Russia. Rasputin was rumored to have hypnotic power over women, and it is said that he seduced several noble Russian ladies, including possibly the Czarina. Boasts the director of this new institution: "Having this exhibit, we can stop envying America, where Napoleon Bonaparte's penis is now kept. . . . Napoleon's penis is but a small pod. It cannot stand comparison to our organ of 30 cen-

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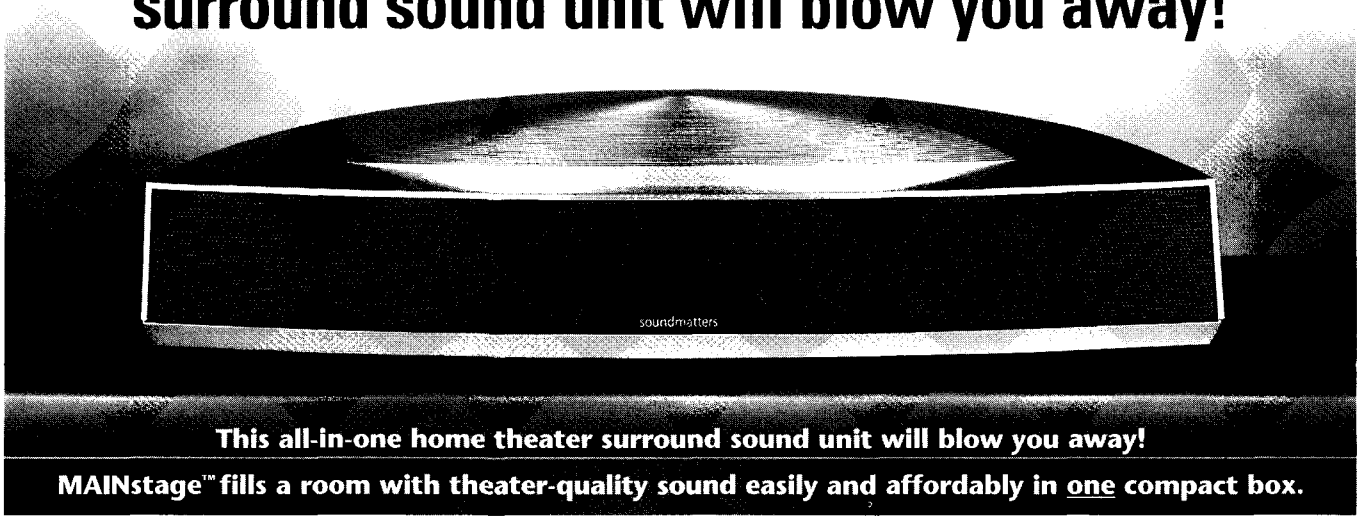
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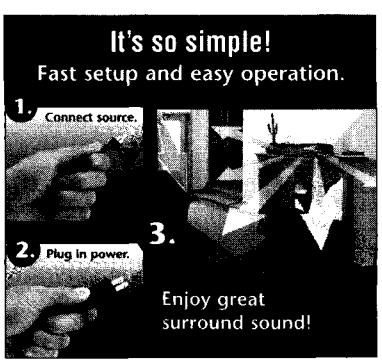

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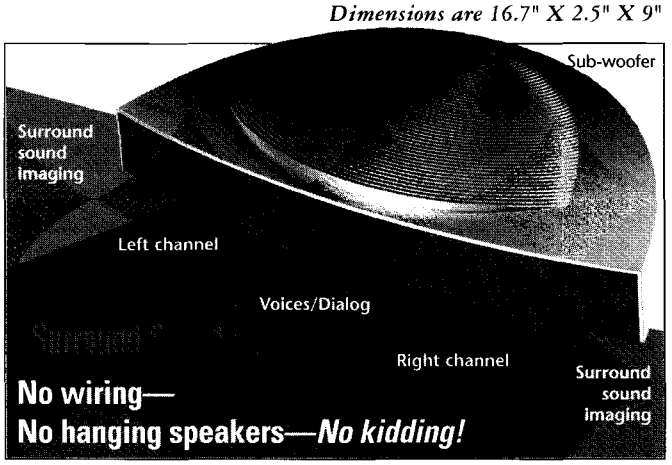

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THE WEEK...

timeters . . ." Hmm. Pictures of this sensational member have been posted on the Internet. A *National Review* contributor who has long experience shopping for exotic foodstuffs in Chinese stores and markets had the opportunity to scrutinize those pictures. His pronouncement, which we take to be definitive: It's a sea cucumber.

■ Mel Lasky played a central part in the Cold War against Communism, and relished every moment of it. His intellectual horsepower was as high as anyone's, and he had go-getting energy to match. A New Yorker born and bred, he had begun as a young Trotskyite in the magnetic field of the *Partisan Review* crowd in its prewar heyday. The experience freed him from all illusions. Serving in postwar Germany, he immediately grasped that the Communists had control of central Europe, and through force and fraud might take western Europe too. Resistance was a cultural issue as much as anything. Mel was in his element, inspiring the Congress for Cultural Freedom to hold conferences and subsidize magazines whose purpose was to turn Soviet propaganda back on itself. For some three decades he edited the monthly magazine *Encounter* in London. The thrust of the magazine was that a free society produces a better and more rewarding life for everyone than totalitarianism. Catching Mel's commitment in a debate with historic implications, the most influential writers of the day—the poets as well as the polemicists—were glad to contribute. In person, Mel was lively, a Lenin lookalike, a pipe-smoker, a lover of stories, loyal to his friends, and after the downfall of the Soviet Union gratified to see his hopes realized. R.I.P.

AT WAR

Slogging Ahead

In a primetime speech, the first of several he is to give weekly, President Bush reiterated his vision for the new Iraq. If the speech didn't contain anything new, except for the symbolic gesture of proposing to destroy Abu Ghraib, it usefully signaled the president's resolve and engagement. Bush did not grovel and apologize for past mistakes, as his critics would like. But he spoke relatively frankly about the difficulties in Iraq and our "failure"—his word—to create a credible Iraqi military force. He stood by his essential vision of a free Iraq, but did it in a non-utopian key. He declared his goal "a representative government that protects basic rights," and stipulated that "Iraqis will raise up a government that reflects their own culture and values." Just so.

Bush's speech came in an environment characterized by declining public support, increasing elite panic, and deepening distress among the war's most fervent supporters. Some perspective: It is important always to keep in mind the achievement of toppling Saddam, which removed a persistent threat to the region and our interests there. The deterrent effect on other rogue regimes will work in our favor in the future, and already has with Qaddafi's Libya. Yes, the occupation has been difficult, but it should be judged by Iraqi standards rather than American ones. Iraq is a Third World country ravaged by three decades of tyranny. In that context, the limited progress we have made in a year should be mildly encouraging and certainly not a cause for the black despair that has seized the political class. It is even becoming respectable to call for an American pullout, once the position only of the fringe Dennis Kucinich. Such a pullout would be a self-fulfilling recipe for disaster: Nothing would so ensure that Iraq goes down as "another Vietnam," the favorite phrase of Bush's critics.

Even some supporters of the war have joined the Despair Caucus, if for different reasons. A cadre of conservatives has been harshly denouncing the Bush administration for the raid on Ahmed Chalabi. It was indeed a ham-fisted way to distance ourselves from Chalabi. Whatever the merits of the head of the Iraqi National Congress—who has often been accused of wrongdoing—he is perceived as an ally of the United States and this public slap at him sends the message that it is risky to be our friend. That said, the Bush administration has been much more prudent in its dealings with Chalabi than the Iraqi's boosters in the U.S would have wanted. We gave Chalabi a chance to generate political support as one of 25 members of the Iraqi Governing Council, and his popularity is not yet in evidence.

A pullout would be a self-fulfilling recipe for disaster: Nothing would so ensure that Iraq goes down as 'another Vietnam.'

But Chalabi is a footnote to the larger story in Iraq, no matter what his fervent critics in the press or fervent friends in Washington say. It has lately become a cliché among certain opinion writers that the U.S. must be seen to "lose" in Iraq, either militarily or politically, in order to give the force defeating us stature and legitimacy. This is nonsense. The U.S. must be seen to win by both Iraqis and Arabs generally, first by crushing its violent opponents in Iraq and then by establishing a stable, decent government—the ultimate victory. In this regard, no recent development has been more important than the U.S. operations against Moqtada ("Mookie," as the troops call him) al-Sadr in the south. The U.S. has dealt severe military blows to the forces of al-Sadr at the same time as it has isolated him politically by working with other, more reasonable clerics. This is a significant achievement, although one that is obscured by the media's obsession with Abu Ghraib.

The political process appears to be roughly on track for the June 30 handover to an interim government. June 30 won't be the magic date when attacks in Iraq cease or when they are perceived to be assaults against the Iraqi people, as the administration has sometimes suggested. But it will be a step forward, and the consultative assembly slated for selection in July in a caucus-like process will be Iraq's first genuinely, if crudely, representative institution in decades. Many hard days are ahead. Bush is now seeking the fourth post-invasion U.N. resolution, but it is unlikely to bring much in the way of international help. Bush has called Iraq a "heavy lift," and Rumsfeld has called it a "hard slog." We have no choice but to keep lifting, keep slogging.

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BROWN V. BOARD

Unhappy Anniversary

It was impossible for anyone, whatever his political persuasion, not to be a bit melancholy on the fiftieth anniversary of *Brown* v. *Board of Education*. The end of formal racial segregation in American education was a great advance, and *Brown* stood for that noble cause. But we are all aware that the promise of a better education for black children has not been fulfilled. Even worse, the civil-rights movement of 50 years ago has become a civil-rights establishment that is willing to stand in the schoolhouse door—this time, to block the exits.

It is *Brown*'s potential for abuse that has been met: its tendency to aggrandize the judiciary. In the legal academy, it is widely assumed that the result of *Brown* is incompatible with the original meaning of the Fourteenth Amendment, and that this incompatibility is a decisive reason not to interpret the Constitution in line with its original meaning. More generally, judicial power has been infused with the romance of the landmark case.

Conservative scholars Robert Bork and Michael McConnell have tried to show that *Brown* reached the right conclusion from the standpoint of original meaning, even if it was not reasoned in that fashion. But whether or not they are correct, the judicial role in the history of segregation is hardly a heroic one. Take the Supreme Court out of the picture, and there would have been no *Brown*. But the Civil Rights Cases of 1883, in which the Court struck down the attempt of Congress to outlaw segregation, would not have happened either. Nor would there have been a definitive judicial validation of the constitutionality of segregation in *Plessy* v. *Ferguson* (1896).

No argument can rescue the southern position in *Brown*. The southern state governments pretended to the bitter end that segregation was not what it manifestly was: a system designed to enforce white supremacy. The Court needed no social-science expertise to reject their deceit.

But if segregation lost, we have not won yet. We should build on what is best in *Brown*: the call to educational opportunity, not the temptation to judicial power.

notes & asides

■ Dear Mr. Buckley: While taking a practice Graduate Record Examination through Princeton Review, I came across the following fill-in-the-blank, which I think you might enjoy: "In effect, Buckley's use of such pompous language, rather than adding to the force of his arguments, merely makes one suspect that behind the [blank] verbal façade stands a flimsy supporting architecture." Answer choices: (A) impressive, (B) brisk, (C) embellished, (D) crumbling, (E) slouching. The decision here between A and C is challenging. I picked A and got it wrong. Is my academic career over?

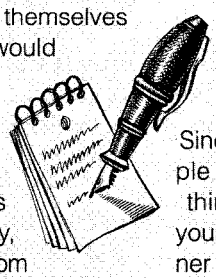
Best regards,
Patrick Truxes
Los Angeles, Calif.

Dear Mr. Truxes: I'd have thought D would have revealed inside knowledge!

Cordially, WFB

■ Dear Mr. Buckley: In the Oct. 13 issue of NR, you responded to a letter of mine in which I described a problem I was having in deciding upon a list of five dinner guests, the difficulty arising from the condition that each would accept the invitation. I was (and am still) having difficulty with the final three choices, as I have been settled on my wife and you being the first two.

In formulating your response, though, I think you were unwittingly modest. You adverted to Socrates' account of a similar problem, in which he came to the conclusion that the dinner guests would talk themselves into irrelevance and he would ultimately have the table to himself. Your modesty is manifest in that you retroceded to Socrates the same sorts of choices that are available today, namely, conservatives, whom you most likely influenced to either become or stay that way. Greece wasn't a bastion of conservatism, which gave rise to Socrates' astute realization that if he invited five prominent folks to dinner, conversation would tend toward a liberal bent. This, when taken to an extreme—as it most likely would at such a dinner—would generate the irrelevancy he foresaw. Liberalism seems to have no natural stopping points, Communism excepted, with its embryonic catalyst being words. The unifying principle is "more" and is commonly directed toward the government, but when put into use at a dinner party among like-minded guests the conversation cannot avoid the synchronous slide into irrelevancy. Conservatism is perhaps the best antidote to this, which you have so valiantly pointed out since Yale.



For this I am grateful and am truly blessed to have lived during your pioneering effort to help guys like Socrates (albeit posthumously) and me.

Back to the original question: Since we now have less chatty people from which to choose, can you think of two people, in addition to your wife, who would make nice dinner guests, and who would not therefore collectively devolve (themselves) into irrelevancy?

Sincerely,
Don Snedeker
North Plainfield, N.J.

Dear Mr. Snedeker: I'll think about that. Meanwhile, keep my dinner hot!
Cordially,

—WFB

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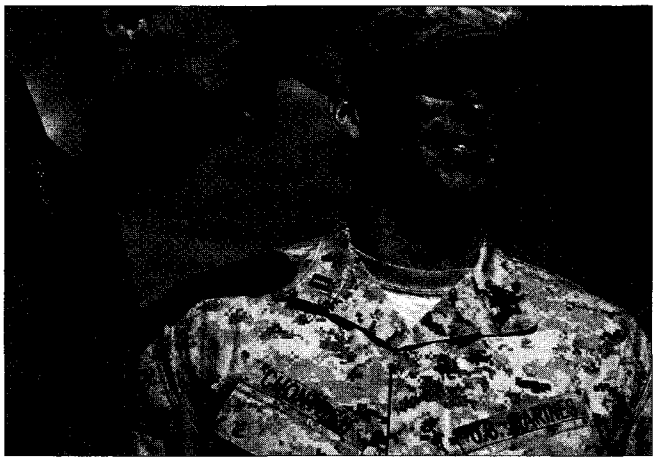

■ AT WAR ■

The Soldiers You Never Hear About

They're not all prisoner-abusers, you know

KATE O'BEIRNE

Ask Americans to name some of our soldiers in Iraq and chances are they'll readily identify Lynndie England, Charles Graner Jr., Jeremy Sivits, and Ivan "Chip" Frederick II. The three major networks have run over 200 stories on the detainee-abuse scandal, making the seven disgraced soldiers assigned to Abu Ghraib the most recognizable faces of American service in Iraq. The media's line of attack against the war is revealed in its selective coverage of our soldiers: All villains and victims, no valor. Not one of the heroes decorated for bravery in Iraq has received a minute of coverage from ABC, CBS, or NBC. National newspapers have run hundreds of stories on the scandalous service of the Abu Ghraib seven, but have made no mention of another seven whose stories of service could be recounted with Steven Seagal cast in the lead.

In early May, Marine Captain Brian Chontosh, Marine Lance Corporal Joseph Perez, and Marine Sergeant Marco Martinez were awarded Navy Crosses for extraordinary heroism, an award second only to the Medal of Honor. Army Sergeant Gerald Wolford, Army Sergeant Major Michael Stack, Marine Staff Sergeant Adam Sikes, and Marine Corporal Armand McCormick—and 123 others—have been awarded Silver Stars for outstanding valor in combat. The stories of these courageous men represent the dedication of the tens of thousands of soldiers serving bravely and honorably in Iraq far better than the actions of a derelict nightshift in two isolated cell blocks.

On March 25, 2003, then-Lieutenant Brian R. Chontosh, 29, of Rochester, N.Y., was leading his platoon on Highway 1 south of Baghdad when his troops came under a coordinated ambush of mortars, rocket-propelled grenades, and automatic-weapons fire. With the road ahead blocked, Chontosh realized his men were caught in a kill zone. He ordered his driver to advance directly into the enemy trench. Chontosh leapt from his vehicle and began firing with his rifle and pistol. But his ammunition ran out. "With complete disregard for his safety," according to the citation, "he twice picked up discarded enemy rifles and continued his ferocious attack. . . . When his audacious attack ended, he had cleared over 200 meters of the enemy trench, killing more than 20 enemy soldiers and wounding several others."

After being awarded the Navy Cross, Captain Chontosh said, "I was just doing my job, I did the same thing every other Marine would have done, it was just a passion and love for my Marines." Two of those Marines—Corporals Armand E. McCormick, 22, and Robert P. Kerman, 21—received Silver Stars, the service's third-highest award, for their "conspicuous gallantry and intrepidity" in pressing the assault forward in that trench. Two days after the award ceremony at Camp Pendleton, McCormick redeployed to Iraq.

During the First Marine Expeditionary Force's advance to Baghdad, Lance Corporal Joseph B. Perez's platoon came under intense fire. As point man for the lead squad he was its most exposed member. Perez, 23, returned fire continuously while also directing accurate fire from his squad. He led a charge into a trench, killed the enemy combatants there, and, under "tremendous" fire, threw a grenade into another trench. Perez continued shooting with "precision rifle fire" and despite serious gunshot wounds directed his squad to take cover and reorganize, enabling them to defeat the enemy.

Then-Corporal Marco A. Martinez, 22, was coming to the aid of an ambushed platoon during the battle of Al Tarmiya on April 12, 2003, when his squad leader was wounded and he took command of the assault along the Tigris River. With his squad under fire from a nearby building, and "enduring intense enemy fire and without regard for his own personal safety," he launched a captured rocket-propelled grenade into the building, allowing a wounded Marine to be evacuated. Martinez then single-handedly assaulted the building and killed four enemy soldiers with a grenade and his rifle. "I just wanted to take care of my squad. I didn't want to quit on them," he later explained.

In the same battle, Staff Sergeant Adam R. Sikes, 27—who had cancelled plans to attend Georgetown University "so he wouldn't miss the war in Iraq"—was pinned down when the ambush struck but rallied two of his squads to counterattack. "With the squads in position, Staff Sergeant Sikes charged alone across 70 meters of fire-swept ground to close on the first enemy strongpoint, which he cleared with a grenade and rifle fire." Sikes then moved to the top of a three-story building and,

MARINE CAPT. BRIAN R. CHONTOSH (R) WITH GEN. MICHAEL W. HAGEE CPL. JEREMY VOUGHT/DOD

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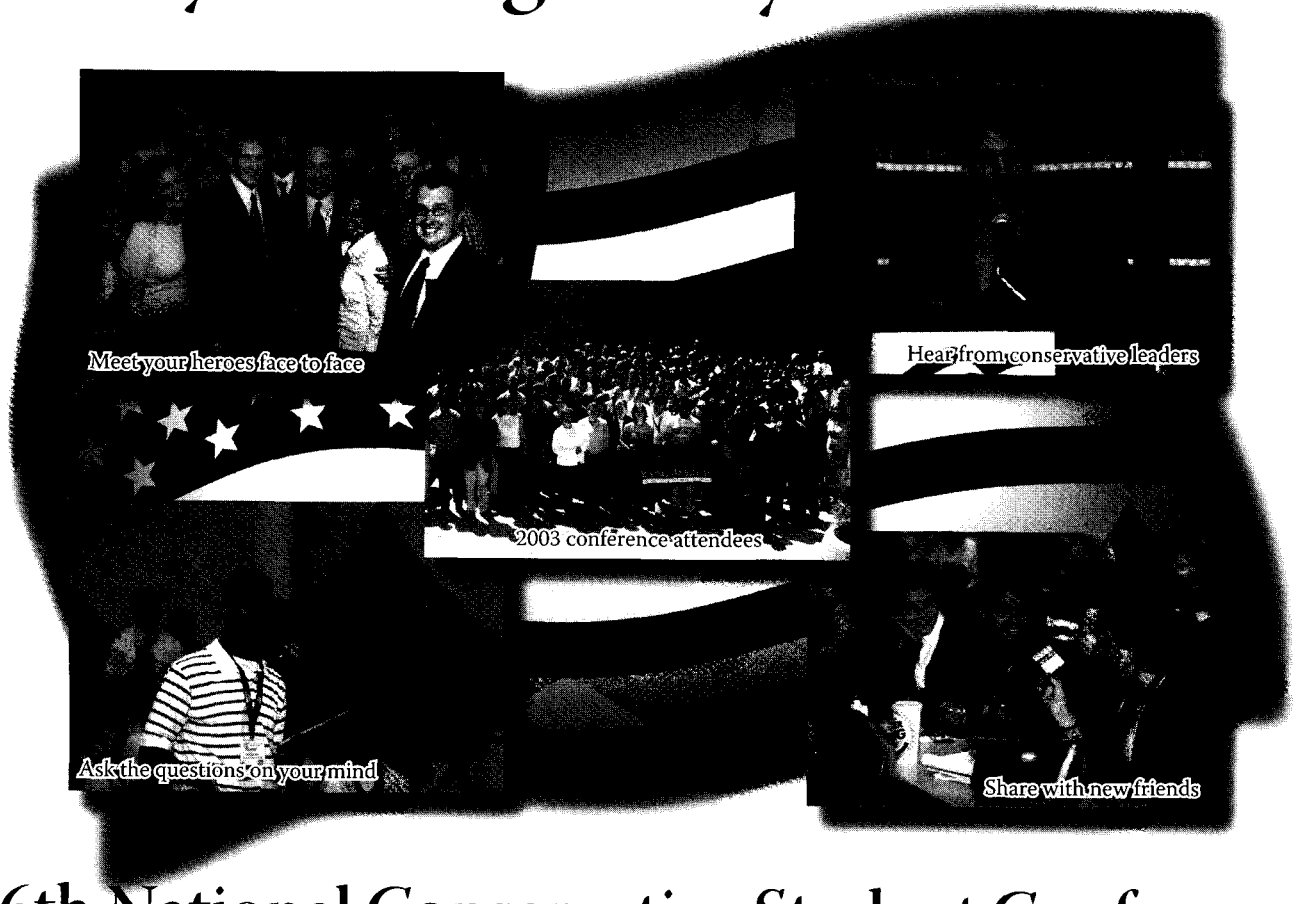
I thought I was alone on a campus of leftists, but then...

"7 Days Changed My Life Forever"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exposed to enemy fire, directed mortar rounds onto enemy positions. Finally, he moved to a squad that had taken casualties and managed their evacuation—again under fire. "So many people are pouring their hearts out over there, trying to make things right," Sikes said at the award ceremony.

Staff Sergeant Gerald A. Wolford of the 82nd Airborne Division received the Silver Star for his actions during a four-hour battle to secure three river crossings in As Samawah. Wolford placed his heavy-machine-gun vehicle between the enemy and the dismounted infantrymen accompanying him. When the vehicle was hit by a rocket-propelled grenade, he ordered his crew to pull out while he remained to direct fire on the enemy position. "For the remainder of the fight, SSG Wolford continually exposed himself to enemy fire as he made efforts to aid others to withdraw."

Sergeant Major Michael B. Stack's Special Forces team came under fire on April 11 when they were traveling from Baghdad to Al Hillah. Providing rear security for the convoy, Stack, 48, immediately began to fire so others could escape from the kill zone. He led a security force to eliminate the remaining threat and allow for the evacuation of casualties, and then prepared for a counterattack. But the enemy concentrated fire on his vehicle and an explosion killed him instantly. The South Carolina father of six—and grandfather of three—was awarded the Silver Star posthumously. "We're doing the right thing," Stack had told his older brother, retired from the Army.

The death of Corporal Pat Tillman (who had left the National Football League) received plenty of press coverage, but the courage and self-sacrifice that merited his posthumous Silver Star was little reported. Tillman was a team leader in an Army Ranger platoon that was ambushed in southeastern Afghanistan. He and his team members were safely out of the area of attack when the tail section of their convoy became pinned down in rough terrain. Tillman ordered his team to dismount and take the fight up a hill toward enemy forces; it was there that he was killed. Once his team had engaged the enemy, fire directed at the convoy's tail section diminished and those soldiers escaped the ambush with no casualties.

Tillman's unit commander, Lieutenant David Uthlaut, was seriously wounded in that attack. Uthlaut was First Captain of the Corps of Cadets for his West Point class of 2001; Rhodes Scholarship material, he chose to serve in Iraq. Twelve West Point graduates have been killed to date in Iraq.

More than 3,700 Purple Hearts have been awarded to our troops in Iraq. Private First Class Quintin D. Graves, 19, joined the Marine Corps last July, and now wears two Purple Hearts. Calling his mother for the second time in less than a month, "I tried to explain it wasn't that bad," he said. "I couldn't lie and say I'm not around the fighting. That lie doesn't work anymore." Marine Corporal Thomas W. Kuster, a 28-year-old from California, has three Purple Hearts. Last year he was wounded in Baghdad. "They got me once," he explained. "I figured they weren't getting me again." But they did—during street fighting in April, and then at a checkpoint outside Fallujah. A bullet was removed from the back of his knee and he walks with a limp, but he's back on duty. "My parents begged me to come home," Kuster said. "But, I felt like if I was to go, I'd be turning my back on my Marines."

The only American name most people recognize from the fierce three-day battle at Mazar-e-Sharif is that of John Walker Lindh, the Taliban kid from Marin County. While Lindh was disgracing himself, Army Special Forces Major Mark Mitchell was earning the first Distinguished Service Cross awarded since the Vietnam War. Vastly outnumbered, Mitchell led 15 Special Forces troops and allied fighters to rescue a CIA agent, recover Johnny "Mike" Spann's body, and prevent a Taliban takeover of the fortress. During the fighting, Mitchell used the unwound turban of an allied soldier to scale a 35-foot-high wall of the compound and then directed air strikes from his exposed position. CIA director George Tenet attended the ceremony last November recognizing Mitchell for "extraordinary heroism in action."

The Ranger Creed that inspired the bravery of Pat Tillman reads, in part: "Surrender is not a Ranger word. I will never leave a fallen comrade to fall into the hands of the enemy and under no circumstances will I ever embarrass my country." It's too bad the media will under no circumstances tell the remarkable stories of these and other soldiers and Marines, who bring great credit to themselves, their services, and their country. **NR**

■ **MEDIA**

David Brock Is Buzzing Again

And the gadfly's main target is Rush (and Bush, of course)

BYRON YORK

Susie Tompkins Buell was very, very impressed with David Brock. A California businesswoman who co-founded the fashion giant Esprit and went on to become a major donor to Democratic causes, Buell was in Washington last fall attending a meeting of friends and supporters of Sen. Hillary Rodham Clinton when she met Brock, the self-described former "right-wing hit man." Buell listened as Brock, now a defector to "progressive" causes, presented plans for Media Matters for America, his new Internet-based project to monitor and criticize conservative media. In a short time, she was sold.

"It just made so much sense to me," Buell recalls. "All this garbage that's coming out of the Right is like the worst contamination of this country. . . . He brought so much understanding of what goes on over there. He's very articulate, and very, very bright."

After Brock's presentation, Buell introduced herself and offered to hold a fundraiser for him at her home in San Francisco. Brock accepted, and at that gathering Buell introduced him to other potential contributors, whose donations would become part of the more than $2 million Brock has so far raised for Media Matters.

Launched in early May, the organization says its purpose is to keep an eye on "conservative misinformation" in the American media. "Conservative misinformation," according to the group's mission statement, is defined as "news or com-

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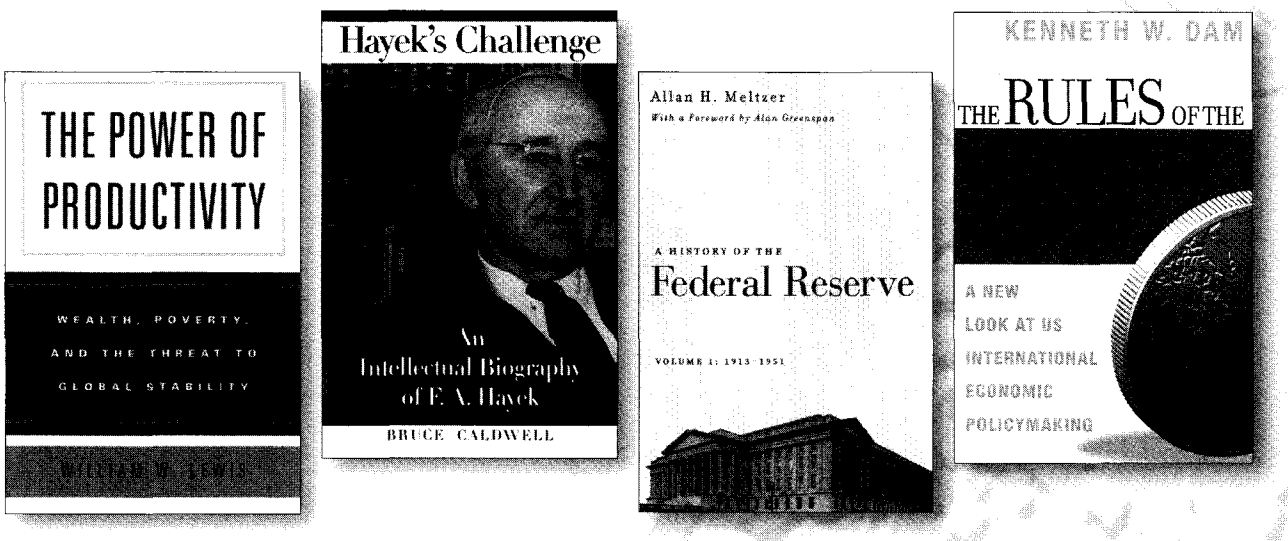
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mentary presented in the media that is not accurate, reliable, or credible, and that forwards the conservative agenda." While in its first few weeks of operation Media Matters published attacks on the usual targets—Fox News, for example—Brock seems to be devoting particular energy to what he calls an "aggressive ad campaign" against radio host Rush Limbaugh.

In addition to a series of critiques on the group's website, Brock has produced a television commercial attacking Limbaugh for comments he made about the Abu Ghraib prison-abuse scandal. Media Matters spent $100,000 to air the spot on CNN, MSNBC, Fox, and a few other television outlets. Brock also commissioned Democratic pollster Geoffrey Garin to conduct a survey on a variety of media issues, including perceptions of Limbaugh. Among other things, Garin found that a majority of those surveyed believe Limbaugh often presents views that are biased, "rather than impartial and balanced." Garin also found that a large part of Limbaugh's audience is politically conservative.

Conservatives—anyone, actually—might question whether such insights are worth whatever Brock paid for them, but the poll, together with Brock's anti-Limbaugh television ad campaign, suggests that Media Matters is much more than a traditional media watchdog group. Indeed, it is probably more accurate to view Media Matters as part of the constellation of groups—the so-called "527" organizations, the voter-turnout group America Coming Together, John Podesta's liberal think tank the Center for American Progress, MoveOn.org, liberal talk radio, and others—that have come together on the left in the last year or so, all aimed at electing a Democratic president this November.

Certainly some of Brock's donors see it that way. Leo Hindery Jr., a cable-television executive who contributes to Democratic causes, says he sees Media Matters as part of a coordinated action on the left. "I thought this was a piece of the puzzle," Hindery says. "There are people like Mike Lux [a Democratic consultant who runs an important ad agency], who are into the strategy point of view, there's Podesta, who's into the think tank/intellectual side, and I think the third part of the triangle is David's initiative."

Brock's donors read like a Who's Who of those who have financed the new, activist Left. Besides Buell and Hindery, donors to Media Matters include Peter Lewis, chairman of Progressive Corp., who has contributed more than $7 million to the 527s in partnership with his friend, the financier George Soros. There is Democratic activist Bren Simon, wife of shopping-mall tycoon Mel Simon, New York psychologist and donor Gail Furman, California philanthropist James Hormel, and others. Two anti-Bush organizations, the New Democratic Network and MoveOn.org, have also contributed to Brock's project.

In addition to his donor list, Brock's staff at times resembles that of a political campaign. In the group's K Street offices, there are a number of veterans of Democratic causes. One Brock aide did opposition research for the recent presidential campaign of Sen. John Edwards; another did the same thing for the Democratic Congressional Campaign Committee; yet another worked on the Wesley Clark presidential campaign; another worked for Massachusetts Democratic representative Barney Frank, and so on.

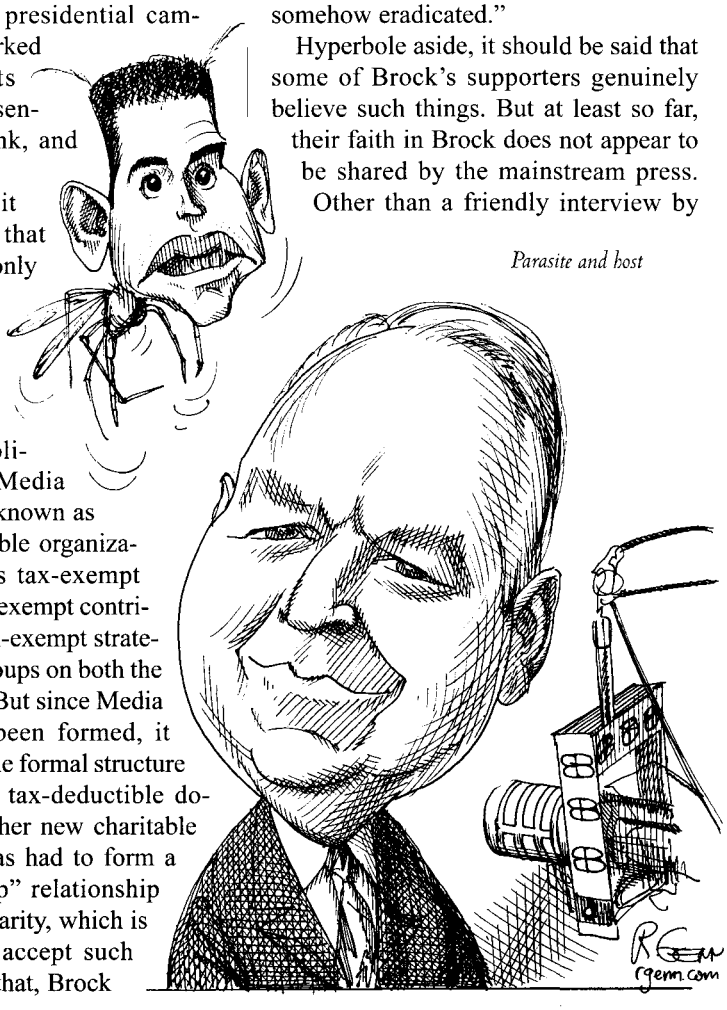
Given all that, it seems fair to say that Media Matters is only partly about the media. It is also very much about defeating George W. Bush.

Whatever its political orientation, Media Matters is what is known as a 501(c)(3) charitable organization, meaning it is tax-exempt and can accept tax-exempt contributions (similar tax-exempt strategies are used by groups on both the left and the right). But since Media Matters has just been formed, it does not yet have the formal structure in place to accept tax-deductible donations, so, like other new charitable organizations, it has had to form a "fiscal sponsorship" relationship with an existing charity, which is already set up to accept such contributions. For that, Brock turned to the Tides Foundation, a wealthy but little-known institution that funds a variety of left-wing causes.

Finally, the creation of Brock's new organization happens to coincide with his drive to publicize his new book, *The Republican Noise Machine: Right-Wing Media and How It Corrupts Democracy*. The book purports to tell Americans that the "verbal brownshirts" of the Right are far more dangerous than many believe. In Brock's telling, conservatism is close to an all-powerful political movement, while liberalism, once formidable, now "seems a fringe dispensation of a few aging professors and Hollywood celebrities."

The right wing is so dominant, Brock writes, that even if Democrats win the presidency this year "they still face the prospect of being brutally slammed and systematically slandered in such a way that will make governing exceedingly difficult." The brutal conservative noise machine will keep going, Brock warns, "until its capacities to spread filth are somehow eradicated."

Hyperbole aside, it should be said that some of Brock's supporters genuinely believe such things. But at least so far, their faith in Brock does not appear to be shared by the mainstream press. Other than a friendly interview by



Parasite and host

ROMAN GENN

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PAIN MANAGEMENT IN CRISIS!

Alicia Smith took her own life on March 16 because she couldn't stand the chronic pain any longer.[1] When federal agents arrested her physician, Dr. William Hurwitz, Alicia couldn't find anyone else willing to prescribe the large dose of opiates she needed to survive.

All over the country patients with chronic pain say they are having trouble finding adequate and proper medication. This is a public health catastrophe that cries out for reform.

Because prescription medicine now ranks number two among drugs most abused by adults and young people, the federal government plans to dramatically ramp up enforcement, ostensibly going after doctors who do not follow "sound medical practice".[2] Doctors have become so gun shy that the Association of American Physicians and Surgeons now advises its doctors not to prescribe opiates at all.[3]

DEA officials deny that their campaign has a chilling effect on physicians, saying they take action in only a few hundred cases a year. But the physicians don't see it that way. "It only takes one person to get guillotined for everyone to get the message," says Robert Mills, spokesman for the AMA.[4]

When chronic pain patients become desperate, they inevitably turn to the black market for additional medication, or they are forced to "game the system" by seeking duplicate prescriptions.

Pain management specialists should be policed by other pain management specialists – not law enforcement officers.

The medical profession itself is part of the problem. In medical school, doctors get little if any training in pain management, so they either under-medicate or avoid chronic pain patients altogether. Patients with legitimate need for heavy medication, victims – of cancer, bone disease, botched surgery, etc. – seek out those few doctors like William Hurwitz who are willing to help. This raises a red flag for law enforcement since these doctors seem to be prescribing heavy doses for too many patients.

Congress and the medical profession must work out a solution for the millions of Americans who are living with chronic pain and cannot obtain appropriate relief. Pain management specialists should be policed by other pain management specialists – not law enforcement officers.

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1. Not her real name. 2. Office of National Drug Control Policy, 2004 Strategy Report. 3.Los Angeles Times Oct 20 03, "Painful Rift." 4. Drug Enforcement Report, Dec 23, 2003, "DEA Addresses Complaint."

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the *Today* show's Katie Couric, Brock has received far less attention for his new project than he received in 2002 when he published *Blinded by the Right*, the book in which he confessed to having lied in some of the stories he wrote for conservative publications in the 1990s.

The book did what many—even those on the left who share Brock's contempt for conservatives—consider fatal damage to Brock's credibility. When *Blinded by the Right* appeared, Timothy Noah, the liberal "Chatterbox" columnist for *Slate*, wrote that "Chatterbox yields to no one in his eagerness to believe the awful things Brock is now saying about himself and the conservative movement in America. But the more Brock insists that he has lied, and lied, and then lied again, the more one begins to suspect Brock of being, well, a liar."

Now that same David Brock is trying on a new role as guardian of accuracy in media. It all seems, well, a little much. But in this year of 527s, megadonors, and Democrats determined to "fight back," it appears that anything is possible. **NR**

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■ **THE NATION**

Justice Behind Bars

Getting back to our own prison problem . . .

ELI LEHRER

It also happens here. For all the chest-thumping and self-doubt that have accompanied revelations of prison abuse over 6,000 miles away in Iraq, America faces plenty of problems in its own 2 million-person correctional system. "The only difference is that we don't take as many pictures in American prisons," says University of Delaware corrections expert Ken Haas.

Haas exaggerates a bit; American prisons and jails *are* better than the ones the military runs in Iraq. Overt, public humiliation of prisoners and outright guard-on-prisoner brutality rarely take place. Most prison guards treat inmates with cold courtesy and, for the minority of prisoners who want to, it's not difficult to find a new religion, get into shape, or take literacy classes behind bars. Our prisons serve America well, insofar as they keep past and would-be-again criminals behind bars: The U.S. has an imprisonment rate almost three times that of any other developed nation and, not coincidentally, the lowest overall crime rate among major Western countries that report statistics to the United Nations.

But prisons face a considerable crisis. Prisoners deserve some indignities: silly-looking uniforms, lousy food, and uncomfortable beds, for example. Many current practices, however, cross the line between correction and cruelty. While new federal legislation may make a dent in the problem, male inmates—particularly those who are weak, effeminate, and in a facility's racial minority—have a frighteningly high chance of falling victim to rape. As many as one male prisoner in ten is raped while in jail; some get AIDS as a result. Every year, at least a handful of prisoners die after being denied needed medical care: One Florida juvenile, Omar Paisley, died in a puddle of blood and feces last year when nurses accused him of faking stomach pains that signaled appendicitis. Non-sexual inmate-on-inmate assaults happen daily at many prisons, and at least two major county correctional systems—Maricopa County, Ariz., and Broward County, Fla.—let guards brutalize inmates frequently and have been slapped with fines and court supervision as a result.

In short, America's correctional system exposes many inmates to brutality while doing nothing to break them of the bad habits and poor morals that landed them behind bars in the first place. Neither of these problems has an easy solution, but managerial reform, work programs, religious faith, and better post-release monitoring hold the best potential for remaking America's troubled prisons.

To begin with, America must improve prison management. Corrections officers sit at the absolute bottom of the public-safety food chain; many come from the same neighborhoods as their charges. They have little training, even less formal education, and often see brutality as a good management tool. All too many fall victim to inmate scams and become conduits for drugs, alcohol, and other contraband. An active effort to recruit smart police officers—from the 1960s onward—led directly to the community policing successes of the 1990s; prisons should follow the same model and upgrade their workforces. This is unfortunately made more difficult by the fact that, while many police unions cooperated with community policing, guard unions—like their public-school counterparts—resist reform. They almost always protest efforts to root out criminal elements within the correctional-officer ranks and to impose tougher educational standards on new hires.

Change also must come to the top. In particular, prison administrators may want to consider adapting some of the management-by-objective practices that have worked for the police. Typically called "CompStat" when the police use it, management-by-objective involves breaking down overwhelming goals such

Mr. Lehrer is an associate editor of *The American Enterprise*.

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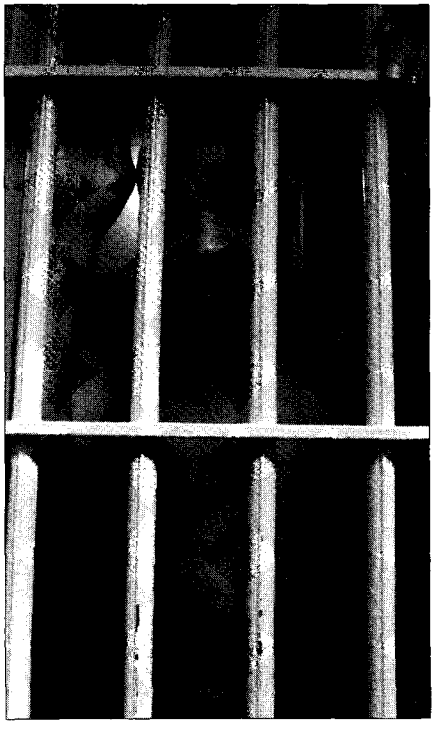
as "reduce crime and violence" into manageable, measurable components, and then giving lieutenants, sergeants, and line officers real autonomy in achieving them. This focus on results produces change.

Mandatory work programs hold the most promise for remaking prisoners' lives. Work-first welfare rules have freed many public recipients from the dole. And welfare reform has shown that work itself provides a valuable education: It teaches people how to show up on time, dress appropriately, cooperate with co-workers, and follow directions. According to a recent Urban Institute literature review, work programs are second only to college degrees in keeping inmates on the straight and narrow. It's impossible to force an unwilling person to earn a college degree—after all, about half of all Americans who start four-year degree programs drop out—but it is reasonably easy to change his attitude toward work. "It can transform the atmosphere if you offer just a few jobs paying near-market wages. Everybody wants to show that they can get one," observes Knut Rostad, president of the Enterprise Prison Institute, a group that advocates in-prison work programs. Non-violent inmates who pose little security risk should have opportunities to work jobs in the outside world, returning to correctional facilities for evenings and weekends. The majority of inmates who do pose a risk should still have ample opportunity to work, behind prison walls. Private companies should be able to set up shop inside correctional facilities and pay market wages to those who prove themselves worthy. Education—basic literacy training in particular—should also be an integral part of work programs. Inmates who dedicate themselves to work should walk out the prison gates with a nest egg in addition to the traditional cheap suit and bus ticket.

While early-20th-century prisons focused on faith-based reform, social-science-inspired rehabilitation efforts, combined with legal activism from the ACLU and kindred groups, banished God from the prison curriculum. So far, explicitly religious programs—like Prison Fellowship Ministries' Inner-Change Freedom Initiative—have produced mixed results, and have high dropout rates. Still, as Robert Martinson concluded in *The Public Interest*, very little works consistently when it comes to remaking prisoners' lives. If only because it remains so untested in the post-World War II period, religion-based rehabilitation deserves a chance.

But improvements to the in-prison experience will mean little unless prisoners are better able to stay out of trouble following their release. To this end, states should look closely at bringing back traditional parole. Eliminating parole—something 33 states have done—appeared to be a good way to get tough on crime; University of California-Irvine professor Joan Petersilia, however, finds that this did little good. Without parole, sentences have grown shorter—and shorter sentences reduce the time dangerous criminals spend kept away from society, thereby defeating the nominal purpose of reform. With "good behavior"—the mere abstinence from continued criminality behind bars—the only requisite for early release, prisoners have no incentive to do anything *positive* while in jail. Those who simply stay out of trouble get released at the same time as those who stay out of trouble *and* learn job skills or pay restitution to their victims.

What's more, when the convicts do return home, they should be monitored much more intensively. Current policies



INMATE AT RIKERS ISLAND MICHAEL S. YAMASHITA/CORBIS

make a mockery of community monitoring: Most offenders visit overworked community corrections officers once or twice a month. Many states drop off released inmates in unfamiliar neighborhoods in the dead of night; mentally ill California inmates used to get only one day's supply of medicine. Where they have been tried—Boston and Orange County, Calif., most prominently—intensive efforts to monitor the worst offenders have correlated with sharp declines in recidivism rates. But small slip-ups—traffic tickets, public drunkenness, even being seen in a known gang location—can still send people back behind bars for long periods of time. For those with the poor impulse control that leads them to commit crime in the first place, current policies—lax monitoring combined with severe punishment for mistakes—are a recipe for disaster. Instead, released convicts should be subject to regular, surprise inspections of the places where they live, work, and play.

For those who remain hooked on drugs after their release from prison—a large percentage—coercive drug treatment (which the American Enterprise Institute's Sally Satel makes a strong case for) should become the norm. Released convicts should be evaluated on the basis of job-performance reports, attendance at classes, and abstinence from intoxicating substances. Ex-cons who are otherwise making good progress might be sentenced to weekends in jail rather than long imprisonment periods if they violate some minor terms of release. More dangerous convicts might reintegrate into society via modified house arrest and be allowed to leave their homes or halfway houses only to work, attend religious services, and take other authorized trips. Governors, for their part, should take a serious look at granting more pardons. Simply abstaining from criminality should never guarantee a person a clean record, but giving ex-convicts a real chance to erase their pasts will give some an added motivation to become model citizens.

Most of all, America's correctional system should realize that effective punishment involves both a respect for the dignity of the people being punished and a strong commitment to break them of their bad habits. **NR**

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■ **COVER STORY**

MEET ELIOT SPITZER

The most destructive politician in America

RAMESH PONNURU

THERE'S a story Eliot Spitzer likes to tell about the Federalist Society. Spitzer had started to make a name for himself as an aggressive and activist attorney general for New York, and the conservative legal group invited him to speak. Spitzer told the group that he too was a federalist: Conservatives had cut the federal government down to size; that devolution of power, he said, had freed him to sue the tobacco companies. The conservatives, he says, were "ashen." Sometimes he adds that he was not received graciously.

Spitzer's story does not hold up in all particulars. Leonard Leo, the executive vice president of the Federalist Society, says, "He was not greeted stonily. He has a wildly different recollection of his one appearance than anyone else who was in attendance." Leo says the society has invited him back.

The underlying point of Spitzer's story, however, is true. A generation of conservative rhetoric about federalism and states' rights has made the political culture receptive to state-level activism. And nobody better embodies the new legal activism of the state attorneys general than Eliot Spitzer. Nor does anyone better illustrate the damage that activism is doing to our form of government. If conservatives are going to resist that activism, as they should, they will have to rethink some of their slogans.

Spitzer now cuts a large figure. He is feared on Wall Street, loved by the press, and considered a strong candidate for governor in 2006. But he almost didn't make it into public office. After Princeton, Harvard Law, and a brief stint at a law firm, Spitzer went to work fighting the mob for the Manhattan district attorney's office. In 1994, he ran for attorney general—and placed fourth out of four in the Democratic primary. In 1998, he spent even more of his father's real-estate millions to unseat the incumbent Republican. This time, he won—barely. The recount went on for six weeks.

The photo finish did not make him cautious as AG. The list of targets Spitzer has gone after seems endless: gun makers, tobacco companies, Internet spammers, drug companies, Microsoft, brokerages, predatory lenders, mutual funds, power plants, the Bush administration, former New York Stock Exchange chairman Richard Grasso. Spitzer's activism has earned him an exceedingly good press. He is most famous for going after Wall Street brokers who sought to woo corporate investment-banking clients by touting their lousy stocks to investors. After that episode, *Time* magazine named him "Crusader of the Year" and compared him to Moses.

Spitzer's critics—he does have them—allow that he is smart and hardworking. But they fault him for being an ambitious publicity hound. He replies that he's happy to have people impugn his motives when they can't challenge the merits of his actions. It is a fair retort: In a healthy political system, public officials will often do the right thing for the wrong reason. If pursuit of the governor's mansion has led Spitzer to advance the common good, we should be glad of it.

The crucial question, then, is whether Spitzer's activism has advanced the common good. There is room for doubt.

Guns. Lawsuits against gun manufacturers have been one of Spitzer's major causes. In 1999 and 2000, he worked hard to get Smith & Wesson to agree to adopt trigger locks, develop "smart gun" technology, change the marketing of its product, and support gun-control legislation. At the last minute, Andrew Cuomo, then Clinton's secretary of Housing and Urban Development and a man who wanted to be governor of New York himself, took over the negotiating, snatching credit away from Spitzer. But what both men were doing was using the threat of litigation to get the company to agree to government regulations that Congress and state legislators were unwilling to enact. Moreover, they were trying to

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exploit Smith & Wesson's market power to get other companies to follow suit. According to the settlement, Smith & Wesson would be able to sell only through dealers who accepted a variety of restrictions. As Walter Olson, a critic of the arrangement, put it, "If dealers and gun shows wanted to stock the dominant manufacturer's line, they'd have to agree to stop promoting disfavored, competitive product lines."

It didn't work. Dealers started dropping Smith & Wesson, and other gun companies pulled out of a joint legal defense with it. Spitzer's response was to threaten lawsuits against the non-cooperating companies.

Spitzer and Cuomo also made another run at gun makers. Working with big-city mayors, Spitzer sued the firearm manufacturers on the theory that guns are a "nuisance," just like drifting smoke or stray dogs, that keeps people from enjoying their homes. The case was thrown out of court. Spitzer appealed, and it was thrown out again. The appeals court ruled that "[s]uch lawsuits could be leveled not merely against these defendants, but well beyond them, against countless other types of commercial enterprises, in order to address a myriad of societal problems—real, perceived or imagined—regardless of the distance between the causes of the problems and their alleged consequences, and without any deference to proximate cause." Also: "Courts are the least suited, least equipped, and thus the least appropriate branch of government to regulate and micro-manage the manufacturing, marketing, distribution and sale of handguns."

The results: a de facto national tax on cigarettes that Congress never passed, and a tobacco-industry cartel protected by the states. The state attorneys general are now quite prepared to help quash private lawsuits against the tobacco companies that might threaten the flow of cash to state governments.

"Predatory mortgage lending." Until the Treasury Department told him to back off, Spitzer was contemplating action against subprime mortgage lenders, whose predation has "become a new scourge" (to quote an article he co-wrote in *The New Republic*). In the 1990s, the financial markets started selling mortgages to people who don't qualify for prime mortgages and thus have to pay more. The interest rates and fees for these products are higher than Spitzer would like. In Spitzer's view, most of the people who buy them "would be better off with no loan at all." But if predation is taking place, subprime lenders should have abnormally high profits. They don't. It is a competitive market, and its peculiarities are not insidious: There are high prepayment charges because a lot of people prepay. The fee structure is complex and high because regulation effectively keeps interest rates from rising to their market level. Spitzer complains that subprime lending is racially discriminatory. Whether that's correct depends on whether minority borrowers are more capable of judging their own interests than he is.

Brokerages. This was the issue that made Spitzer a national name, and he deserves credit for his work on it. He got his hands on e-mails from Henry Blodget, Merrill Lynch's high-flying Internet-stock analyst, in which Blodget confessed that he thought the stocks he was touting were junk. He was selling them because Merrill wanted the companies to which those stocks belonged as investment-banking clients.

Spitzer's critics allow that he is smart and hardworking. But they fault him for being an ambitious publicity hound.

Tobacco. Spitzer was a latecomer to the states' litigation against the tobacco companies, which began before his tenure. He has since become a key player in defending the settlement of that litigation.

The states alleged that the tobacco companies owed them because smoking increased their Medicaid costs. The suits were proceeding successfully through the courts—in some states, because the legislature changed the law so that the tobacconists could not use the same defenses available to other companies. The attorneys general, the tobacco companies, and the trial lawyers reached an agreement. It was submitted to Congress for approval, but opponents blocked that approval. So the leading attorneys general reached a very similar agreement with the companies and the lawyers, this time cutting Congress out.

Under this deal, the companies have to pay the states billions of dollars. They could raise the money by hiking prices—and without worrying about losing market share. Under the terms of the agreement, a company's payments would rise if its market share did. So nobody had an incentive to keep prices low. Small companies that weren't part of the deal were invited to join it at favorable payment rates, in return for not trying to grow larger. The states took additional steps to make sure that any new companies entering the market would also enter the agreement.

New York's Martin Act gave Spitzer sweeping powers to prosecute securities fraud. As Nicholas Thompson summarized some of that act's distinctive features in a recent article in *Legal Affairs*: "People called in for questioning during Martin Act investigations do not have a right to counsel or a right against self-incrimination. Combined, the act's powers exceed those given any regulator in any other state. . . . To win a case, the AG doesn't have to prove that the defendant intended to defraud anyone, that a transaction took place, or that anyone actually was defrauded."

The Martin Act (1921) had not been used against Wall Street for a long time. But Spitzer had occasion to learn about its existence: During his 1998 race, his opponent accused him of financing his campaign in a way that violated the act—a charge for which the evidence was suggestive but not definitive. Once in office, Spitzer started to use the act aggressively.

Merrill Lynch settled. Soon afterward, Spitzer started actions against several other Wall Street companies and got them to settle, too. The settlements included fines, which critics said were too light. No matter: Spitzer was more interested in restructuring the industry to reduce conflicts of interest.

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Perhaps the government was right to crack down on these abuses. Perhaps the regulations he devised are worthwhile, although there are plausible criticisms. But state attorneys general are not supposed to be in the business of issuing securities regulations. Spitzer justifies his activism by pointing to the inaction of the federal Securities and Exchange Commission. (The SEC has nothing like the Martin Act, and is also constrained by federal rule-making procedures.)

And what about the responsibilities of investors? Shouldn't they have known to take investment advice with a grain of salt? "I don't want to say the public shares responsibility," Spitzer told *Money*. The Merrill Lynch case grew out of a private suit brought by a man who lost half a million dollars through recommended investments. If you've got half a million to lose, you might want to consider buying some financial sophistication. Merrill Lynch customers who have followed Spitzer's suits with their own have lost their cases. One federal judge concluded: "The facts and circumstances show beyond doubt that the plaintiffs brought their own losses upon themselves when they knowingly spun an extremely high-stakes wheel of fortune." It may be that Merrill Lynch was undone not by the legal merits, but by the threat that Spitzer would pummel its reputation by using his Martin Act powers.

GOVERNMENT BY LAWSUIT

Spitzer argues that his lawsuits and enforcement actions make markets more efficient and fair. He isn't hostile to free markets; he just recognizes that they require strong government. Moreover, he claims that he is making government work better: He takes action only when legislators have failed to. But it is unlikely that establishing cartels or suppressing voluntary transactions really strengthens markets. There is a deeper problem with Spitzer's style of regulation through litigation: When legislators "fail" to regulate guns, they may be choosing inaction over the alternatives. When Spitzer tries to override that decision, he exalts his own policy preferences above democratic procedures.

And what is the attorney general of New York doing setting *national* policy on guns, securities regulation, pollution, or any other issue? During one phase of his Wall Street campaign, the editors of the *Wall Street Journal* asked whether Spitzer was running for governor of New Jersey—the worry being that investment houses might decamp. The *Journal* has made many warranted criticisms of Spitzer, but this one was off the mark: It understated his ambitions. Spitzer does not claim jurisdiction over Wall Street because it is located in his state; he claims jurisdiction because some of its clients are. If firms moved to New Jersey, or New Mexico, they would find that Spitzer and the Martin Act had followed them there.

What is the attorney general of New York doing setting *national* policy on guns, securities regulation, pollution, or any other issue?

The "mutual-fund scandal." Spitzer next went after mutual funds. Supposedly, they had cost investors $4.9 billion a year by allowing a few people to engage in "late trading" and "market timing." But according to Henry Manne, the former dean of the George Mason University law school, the damage to investors was much less, and the benefits they received greater, than Spitzer claimed.

Late traders and timers exploit the 4 P.M. market closing time: If new information comes out after that time, trading at the "stale" closing price can be profitable. The $4.9 billion figure came from estimating the maximum amount that short-term traders could make from these practices and then assuming that all of their gains were made at the expense of long-term investors.

The mutual-fund industry is, however, highly competitive, with hundreds of companies and thousands of funds. If long-term investors were getting lower returns from some funds because the funds allowed timing, the investors could easily have gone elsewhere.

Some of the funds' activity was clearly illegal. But serious harms to investors have not been demonstrated. Moreover, the settlement Spitzer imposed—lower fees—has no relation to the charges. Stephen Bainbridge, a securities-law professor at UCLA, wrote, "It's as though you got busted for pot possession and the DA said you had to give up snowboarding." Spitzer isn't supposed to be setting fees for the mutual-fund industry, however popular that may be to New York voters.

We are used to thinking of the "litigation explosion" or "liability crisis" as an economic problem. It has an overlooked political dimension: It is a breakdown of federalism. Under the current dispensation, an Alabama plaintiff can sue an Ohio company in an Alabama court, before an Alabama judge and jury, so long as the company has at least "minimum contacts" with Alabama. The court can decide to apply Alabama law, because the Alabama government has an "interest": It's the forum state. If Alabama's laws are better for plaintiffs than Ohio's, over time Ohio will find its liability rules becoming irrelevant. Alabama will be able, effectively, to create national rules for product liability. That's the dynamic that brought the liability crisis into being.

Michael Greve, the director of the American Enterprise Institute's Federalism Project, argues that the activism of the attorneys general represents a new, more virulent strain of the tort crisis. Now the trial lawyers have badges. They want liberal social policy, not just cash awards. The old tort shakedowns often featured exaggerated or even non-existent harms. Lester Brickman, in *Pepperdine Law Review*, argues that the asbestos litigation was based on fraudulent claims. The new lawsuits hardly even bother to demonstrate harms: An arcane theory of what the world would look like if the target industry followed different marketing practice, or adopted a different pricing structure, suffices.

Greve calls the emerging system of state-government power "neo-Confederate," in contrast to the federalism found in the

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Constitution. He's got a point. The fact that the Articles of Confederation effectively allowed states to commit economic aggression against one another was a major reason the Constitution was adopted.

That doesn't mean the system will now degenerate into a war of all against all. The states can find an equilibrium point of collusion. Spitzer himself is mindful of the threat of regulatory balkanization, which corporate America detests. The attorneys general will make sure that we have uniform national policies—they just won't be set in Washington.

The tobacco settlement offers a model for this future. How did the states, including the tobacco-producing ones, come to a unanimous agreement? Simple: Once a critical mass of states had reached a deal with the companies, the other states were left with two options. They could take the companies' payments or refuse them. Either way, their smokers were paying the higher fees. Even Alabama's Bill Pryor, the attorney general most opposed to the deal, eventually signed on. The new activism of the attorneys general may be one reason the position is now dominated by Democrats. It certainly accounts for why Republican AGs act the same way as the Democrats.

Federalism properly conceived would leave room for regulatory activism, but that activism would be constrained because state laws would have little extraterritorial reach. Washington should probably back off on subprime mortgage lending: Let Spitzer take whatever action he wishes. So long as the costs of regulation are borne inside the state, there is a limit to how far it will go. Georgia passed a draconian law on subprime lending, saw its market collapse, and had to repeal the statute.

Delaware is the corporate-chartering capital of the country because corporations get to choose which state's legal regime to adopt. If securities regulation were handled under the same choice-of-law principle that governs corporate law, Spitzer's reign would not be troubling. As Greve puts it, brokerage houses "could accede to Spitzer's regime and wear his oversight as a badge of honor and integrity or else migrate to a more hospitable jurisdiction." Spitzer would then "function as credible intermediary agent in a market where private, self-regulatory institutions, as well as federal regulators, seem to have failed. Not as exalted a role as that of Global Investors' Avenger—but a vastly more valuable and appropriate one."

A VACUUM OF POWER

Spitzer often says that he is acting because the federal government has not. He is right, in a sense. The state attorneys general can exercise the powers they do only because neither Congress nor the federal courts have imposed constraints on them. It is hard, however, to see who is going to stop the AGs.

It won't be the business lobby. A lot of companies are afraid to take on Spitzerian activists for fear they will be the target of the next enforcement action. Besides, life on the inside of cartelizing deals is rather cozy. Spitzer is not some left-winger out to bankrupt industries. Indeed, he can offer protection from other attorneys general and from private litigants who might be so inclined. Don't be surprised if, in a few years' time, America's pharmaceutical industry decides to become a regulated public utility in everything but name, with a lot less innovation but a guaranteed rate of return. If it happens, the deal will be made with the attorneys general, not Congress.

The U.S. Constitution is an obstacle to the AGs—or would be, if anyone remembered what it was. The Constitution does not contain any provisions that mention "federalism." It does, however, include provisions that limit the reach of the federal government over states, and provisions that limit the states' ability to plunder one another's citizens. The compact clause, for example, requires a congressional majority to authorize agreements among the states. Dairy-producing states can't just form a cartel to mulct all the other states; they can do that only when Congress says it is okay (as it does). Under the clause, the tobacco deal should have been required to get congressional approval. The full-faith-and-credit clause requires that state courts show some deference to sister states' laws—a rule that would bring the tort crisis under control by restraining forum shopping.

We now have a 'federalism' that subverts the goals of citizen choice and political accountability that it was meant to serve.

But while the Supreme Court has seen a modest revival of federalist limits on the national government in recent decades, limits on state governments' ability to set national policies remain dead. The liberal justices are voting for regulation by litigation, and the conservatives are voting for "states' rights"—at the risk, Greve notes, of transforming the Constitution into a "trial lawyers' bill of rights."

Conservatives, too, seem inclined to bless anything the states want to do as "federalism." In various debates over the last decade, many Republicans have acted as though unlimited discretion on the part of state governments in spending federal money was part of the Founders' design. In the name of taxing Internet sales, most of the nation's governors are trying to create a tax-collection system that will ensure that when a family from Maine goes on vacation in Florida, it will bring Maine's taxes with it. People seem at least to understand that a state sales-tax cartel requires congressional approval. But too many self-described conservatives are leading the charge for that approval (as are important companies such as Wal-Mart). We now have a "federalism" that subverts the goals of citizen choice and political accountability that it was meant to serve.

Eliot Spitzer may never become governor. He is said to be concerned that Sen. Charles Schumer is better positioned for the 2006 primaries. Given the trend lines, however, he may want to consider whether the job would be a demotion. **NR**

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■ AT WAR II

POWs and Others

Detainees do not share a single status

LEE A. CASEY & DAVID B. RIVKIN JR.

THE American people were rightly shocked, outraged, and ashamed at the abuse of Iraqis at the Abu Ghraib prison in Baghdad. All detainees, including Saddam Hussein loyalists and foreign jihadists, are entitled to a humane level of treatment that should have precluded their sexual assault and humiliation. The individuals who perpetrated these offenses disgraced themselves, dishonored their uniforms, and gravely damaged the national interest in time of war. They can, and should, be severely punished. If evidence emerges that some military officials, while not directly engaged in the detainee abuses, may have fostered an enabling atmosphere or lax discipline, or generally exercised poor leadership, they too must be held accountable. Institutional reforms also should be considered, including a more rigorous training for reserve MP units.

Nonetheless, claims that the Abu Ghraib abuses were somehow permitted, or at least encouraged, by the Bush administration's overall approach to the Geneva Conventions, either in Iraq or in the War on Terror more generally, are groundless. The administration's interpretation and application of the Geneva treaties has been, and remains, fully consistent with U.S. international obligations. The critics who argue otherwise are either mistaken or using pseudo-legal arguments to advance a policy agenda, one aimed at nothing less than a fundamental recasting of the entire traditional American approach to war—a change that would severely harm U.S. national security.

To begin with, the U.S. and its allies have—setting aside Abu Ghraib—compiled an exemplary record of compliance with the laws of war, in both Afghanistan and Iraq. Exceptional care has been taken to minimize collateral damage, ensuring that the tens of thousands of civilian casualties, widely predicted by the Iraq war's opponents, never materialized. Senior U.S. officials also have taken special care to avoid demonizing the enemy, consistently emphasizing that America's fight is with a small, radical fringe of Islam or with Saddam Hussein and his Baathist regime.

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In Iraq especially, attacks against infrastructure targets were minimized, and extraordinary efforts have been made to improve energy, water, sanitation, and other services; these efforts were launched even while fighting was still in progress. The occupation of Iraq has been benign by any previous standard. The U.S. is, in fact, pouring billions of dollars into Iraq, rather than taking resources out—even though its troops have been faced there with a brutal and ruthless insurgency that has itself eschewed any effort to comply with the laws of war, including the four 1949 Geneva Conventions.

LEGALLY SOUND

That, of course, is not the impression given by the politicians, journalists, and advocacy groups that have attacked President Bush and his national security team, with increasing vitriol, since the Abu Ghraib photographs surfaced. Some of these critics have accused the administration of a "contempt for the rule of law"—the *Washington Post*'s phrase—and have suggested that the abuses in Iraq stemmed from the president's decision, early in 2002, to deny Qaeda and Taliban operatives the rights and privileges of "prisoners of war" under the Geneva Conventions. This decision was supported by a January 25, 2002, memorandum, authored by White House counsel Alberto Gonzales, and by a January 9, 2002, memorandum prepared by the Justice Department's Office of Legal Counsel. These documents have been described in the *New York Times* as having "explained how to skip prisoner rights." In fact, these memoranda correctly stated the law, and the president's decision was grounded in very sound policy considerations.

The laws of war have traditionally distinguished the regular soldiers of states—who are subordinated to an organized command structure, wear uniforms, carry their arms openly, and otherwise operate in compliance with the laws of war—from irregular combatants, such as al-Qaeda and the Baathist insurgents, who do not follow these basic rules. Such irregulars are often referred to as "unprivileged" or "unlawful" combatants. The latter term has, unfortunately, caused much confusion over the past two years, suggesting to some that captured unlawful combatants must be treated as criminal suspects. In fact, although unlawful combatants could well be prosecuted for violating laws of war, they also can simply be held as prisoners until the conflict ends. At that time, they must be repatriated, or tried before a military court.

In addition, during their captivity, unlawful combatants are not entitled to the rights and privileges of POWs under the Geneva Conventions. Although all prisoners are entitled to humane treatment under international law, the Third Geneva Convention guarantees many other rights to POWs. For example, it requires that they be housed in "dormitories," with adequate heating and light, and protected from "dampness." They must be given the means of preparing food for themselves, and a "canteen," where they can obtain "foodstuffs, soap and tobacco and ordinary articles in daily use." The profits of this canteen must be used for the prisoners' benefit, and their representatives must be involved in that establishment's management. In addition, "the practice of intellectual, educational, and recreational pursuits, sports and games amongst prisoners," must be encouraged, and the necessary equipment provided.

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It is, of course, these provisions to which Alberto Gonzales was referring when, in his 2002 memorandum, he described portions of the Geneva Conventions as "quaint." Those treaties were drafted in 1949 to address the issues presented by a war that had started in 1939: a conflict between states that was fought with mass, conscript armies. As a consequence, when the Geneva Conventions were adopted, POWs were largely assumed to be decent, honest boys who, had they not been caught by history's tide, would have preferred to remain at home, and whose detention should, therefore, not be burdensome. Geneva POW status was not designed for individuals waging a religious war whose first act was to repudiate the laws of war wholesale, and to directly and purposefully attack civilian targets—with the intent of killing as many civilians as possible.

If this system, which denies honorable POW status to unlawful combatants, seems harsh to 21st-century Americans, it was designed to be harsh. Experience has proven repeatedly that irregular forces, operating as unlawful combatants, present a far greater danger to civilians (who are the special object of protection under international humanitarian law) than do the organized and disciplined armed forces of states. Indeed, the creation of rules that severely disadvantage unlawful combatants was one of international law's first major humanitarian advances—fostering conditions for the establishment of regular, disciplined armies capable of respecting the laws of war and inclined to do so. By contrast, granting the benefits of lawful combatancy to unlawful combatants, treating captured Qaeda men or Iraqi insurgents as POWs, fundamentally undercuts these most basic incentives to operate within the laws of war, and will cost the lives of innocent civilians. It is emphatically not a humanitarian measure.

This is especially true in the War on Terror. In this conflict, the armed forces must not merely defeat the opposing forces, they must preempt attacks on civilians and civilian targets, both at home and abroad. This cannot be accomplished through the criminal-justice system, which is reactive in nature, attempting to deter future criminal activity by punishing past offenses. It can only be achieved through gathering and analyzing intelligence—so that American forces can get there first. This is where application of the Geneva Convention POW rules makes the most difference.

Although the Geneva Conventions permit the questioning of POWs, individuals with that status cannot be coerced, physically or mentally, either by threats, insults, or other "disadvantageous" treatment. Like the Conventions' other POW rules, this restriction is grounded in the assumption that the prisoners are regular soldiers in their country's armed forces, and is particularly based on the belief that they should not be forced (by fair means or foul) into action that would constitute a betrayal of their allegiance. By contrast, unlawful combatants can be subjected to coercive or "stress" interrogation methods—although they cannot be tortured or treated inhumanely. A similar standard applies, under the Fourth Geneva Convention, to individuals held as "security" detainees in occupied territory. As evidently explained in a December 24, 2003, U.S. letter to the International Committee of the Red Cross (ICRC), this treaty deprives individuals detained because of active hostility to the occupying power of the special privileges of "protected" persons, with the exception of a right to humane treatment, to the extent that those privileges would prejudice the occupying state's security. This is both to protect the occupying forces, and to enable them to comply with their other obligations under the Convention—including the requirement to provide a secure environment for the occupied population in general.

Of course, although the use of "stress" methods of interrogation may be legally permissible, they remain highly controversial. In principle, these involve measures designed to isolate and disorient the subject, such as solitary confinement and blindfolding, and to impose physical stress by sleep interruption or deprivation. The overall idea is not unlike military basic training: to remove the individual from familiar faces and routines, and to replace these with highly stressful conditions designed to break down old attitudes and replace them with new ones. Experts disagree on the overall efficacy of stress methods, and there is no doubt that, when taken to extremes, or applied by inexperienced, ill-disciplined, and/or sadistic interrogators, they can result in terrible abuses.

THE RIGHT POLICY

Whether the U.S. should continue to use such methods is clearly a fit subject for a serious debate, as is the question of whether it should grant POW rights to individuals who, legally, do not merit that status. That debate, however, should be framed in terms of policy, and not of law. The U.S. already is acting within the bounds of international law and the Geneva Conventions—despite the claims and suggestions of the administration's critics, including the ICRC and similar groups. It should be recalled that, however humanitarian the nature of their mission, these groups also have policy agendas, and this is particularly true of the ICRC.

The ICRC has, in fact, been one of the most tenacious opponents of U.S. policy since the start of the war, having consistently criticized the administration's decision to withhold POW status from al-Qaeda and the Taliban—even claiming for a time, despite a mass of contrary authority and evidence based on actual international practice, that there was no category of "unlawful combatant." In 2003, the ICRC broke with its traditional rule of public silence and openly attacked the supposed "indefinite" detention of Qaeda and Taliban operatives at Guantánamo Bay, Cuba. This assertion was also fundamentally inconsistent with the laws of war, which permit the detention of all enemy combatants, lawful or unlawful, for the duration of hostilities—to ensure that they cannot return to the fight and, thereby, prolong the war. Most recently, the ICRC took the opportunity, presented by the Abu Ghraib abuses, to "confirm" authorship of a report, "leaked" to the *Wall Street Journal*, which claimed to document serious American "violations of International Humanitarian Law."

This condemnation has, in turn, been seized upon by administration critics to justify their own assertions that the refusal to grant Geneva POW status to al-Qaeda and the Taliban somehow caused Abu Ghraib. That reliance is misplaced. First, although the ICRC enjoys a unique status under the Geneva Conventions—in visiting prisoners and facilitating communication with their home countries—it is not an oracle on those instruments. In the 1950s, the ICRC sponsored a series of commentaries on the Geneva Conventions that are often called "authoritative." However, this is because of the compilers' comparatively painstaking attention to the negotiation record of the treaties, and not because the ICRC has some roving commission to construe the Conventions as it

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sees fit. In fact, like international law in general, the meaning of the Geneva Conventions ultimately depends upon the actual practice of states—each of which has the right to interpret and apply the treaties for itself.

Second, it is debatable whether the ICRC continues to merit the reputation for "impartiality" that it enjoyed in 1949. The ICRC has increasingly supported the development of international norms that disadvantage states and advantage non-state actors. This is particularly the case with respect to the 1977 Protocol I Additional to the Geneva Conventions, which provides additional protection to irregular or guerrilla combatants, as opposed to regular soldiers. (For example, under Protocol I, regular armies can be attacked at any time, while irregulars can be attacked only when they are themselves attacking—effectively giving such irregular forces the initiative in combat.)

Although President Reagan definitively rejected Protocol I (on this very ground), the ICRC continues to promote its application to the U.S., actually referring to that document in its report relative to Abu Ghraib. It does not, of course, explain that the U.S. is not bound by Protocol I. It does not make clear that, although many of Protocol I's provisions do restate customary international-law principles (which *would* bind the U.S.), it is necessary to analyze the instrument provision by provision, and sometimes word by word, to determine which sections enjoy that status. Most important, the ICRC does not identify which of its conclusions against the U.S. are based on the provisions of Protocol I and which on the 1949 treaties themselves.

Given this agenda, it is hardly surprising that the ICRC has opposed President Bush's interpretation of the Geneva Conventions. The desire of the ICRC and similar groups to revise centuries-old norms that limit POW rights to lawful combatants may well be based in a humanitarian impulse; but if POW status is to be extended to every detainee, regardless of his actions before capture, there will be a cost, and that cost should be recognized. By treating all captured combatants the same, a critical incentive for irregular forces to comply with the laws of war will be removed, and their methods of warfare legitimized. The flow of intelligence information about potential future attacks will certainly be restricted, and may well cease altogether. It may be that, in the end, the American people will decide to pay this price. If they do, however, it should be with the full understanding that this is a choice based on policy, and not dictated by the law, and that there are valid humanitarian considerations on both sides of the question.

Americans should also appreciate that, for many of the administration's critics, the real issues transcend the treatment of detainees. They seek to recast the American way of war, away from the decisive use of force—subject to the traditional, broad, and flexible legal rules—to something more akin to a police action or a peacekeeping operation, driven by strictures that closely resemble peacetime criminal-justice rules. These rules, among other things, seek to impose a goal of near-zero collateral damage, to ban numerous weapons systems, and to disadvantage law-abiding military powers. The fact that the U.S. remains one of the few active defenders of the traditional system, and that we face a grave threat from rogue warriors who have deliberately abandoned all legal restraints in their use of force, makes the current debate all the more consequential. **NR**

■ **THE LAW**

The Patriot Act Without Tears

Understanding a mythologized law

ANDREW C. McCARTHY

It was mid-August 2001, the last desperate days before the 9/11 terrorist attacks. Desperate, that is, for an alert agent of the FBI's Foreign Counterintelligence Division (FCI); much of the rest of America, and certainly much of the rest of its government, blithely carried on, content to assume, despite the number and increasing ferocity of terrorist attacks dating back nearly nine years, that national security was little more than an everyday criminal-justice issue.

Since 1995, a "wall" had been erected, presumptively barring communications between FCI agents and their counterparts in law enforcement—the FBI's criminal agents and the assistant U.S. attorneys who collectively, after a string of successful prosecutions through the 1990s, had become the government's best resource for information about the threat of militant Islam. This wall was not required by law; it was imposed as policy. Justice Department lawyers, elevating litigation risk over national security, designed it to forestall accusations that the federal government had used its intelligence-eavesdropping authority to build criminal cases.

This FCI agent collided, head-on, with the wall; and strewn in the wreckage was the last, best hope of stopping 9/11. Putting disconnected clues together, the agent had deduced that two Qaeda operatives, Khalid al-Midhar and Nawaf al-Hazmi, had probably gotten into the U.S. Alarmed, he pleaded with the FBI's criminal division to help him hunt down the terrorists—but they refused: For agents to fuse their information and efforts would be a transgression against the wall. The prescient agent rued that, one day soon, people would die in the face of this paralyzing roadblock. Al-Midhar and al-Hazmi remained undetected until they plunged Flight 77 into the Pentagon on 9/11.

FACING REALITY

By October 2001, the world had changed—and the USA Patriot Act was passed. So patent was the need for this law that it racked up massive support: 357-66 in the House, 98-1 in the Senate. In the nearly three years since, however, it has been distorted beyond recognition by a coalition of anti-Bush leftists and libertarian

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extremists, such that it is now perhaps the most broadly maligned—and misunderstood—piece of meaningful legislation in U.S. history. If our nation is serious about national security, the Patriot Act must be made permanent; instead, it could soon be gone—and the disastrous "intelligence wall" rebuilt.

Contrary to widespread calumny, Patriot is not an assault on the Bill of Rights. It is, basically, an overhaul of the government's antiquated counter-terror arsenal, which had been haplessly fighting a 21st-century war with 20th-century weapons. Indeed, Patriot's only obvious flaw is its cloying acronym, short for "The Uniting and Strengthening America by Providing Appropriate Tools to Intercept and Obstruct Terrorism Act of 2001." But once you get past the title, Patriot is all substance, and crucial to national security.

The most essential improvement wrought by Patriot has been the dismantling of the intelligence wall. The bill expressly amended the government's national-security eavesdropping-and-search authority (under the Foreign Intelligence Surveillance Act or FISA) to clarify that intelligence agents, criminal investigators, and prosecutors not only may but should be pooling information and connecting dots. This is common sense: Along the way toward mass murder, terrorists inevitably commit numerous ordinary crimes, everything from identity theft to immigration fraud to bombing. One could not surveil them as agents of a foreign power (as FISA permits) without necessarily uncovering such crimes, and this, far from being a problem, is a bonus since these lay the groundwork for prosecutions that can both stop terrorists before they strike and pressure them to turn state's evidence.

Yet, as has been detailed in a decisive 2002 opinion by the Foreign Intelligence Surveillance Court of Review, FISA had for decades been misinterpreted by the government and the courts, which, owing to their obsession over the "rights" of enemy operatives, erroneously presumed that national-security intelligence was somehow separate and severable from criminal evidence. This false dichotomy culminated in the wall built by the Clinton Justice Department (and substantially maintained by Bush's DOJ), with awful consequences.

Tearing down the wall—as well as repealing legislation that had barred criminal investigators from sharing with intelligence agents the fruits of grand-jury proceedings and criminal wiretaps—has paid instant dividends. For example, while the wall once caused intelligence and criminal agents in Buffalo to believe they could not be in the same room together during briefings to discuss their parallel investigations of an apparent sleeper cell in Lackawanna, N.Y., the Patriot Act allowed the criminal investigators to learn that a theretofore anonymous letter to one of their subjects had, as intelligence agents knew, been penned by a Qaeda operative. This and other fact-sharing broke an investigative logjam, revealing a history of paramilitary training at al-Qaeda's Afghan proving grounds, and directly resulted in guilty pleas and lengthy sentences for six men who had provided material support to the terror network.

In a similar way, in 2002 law-enforcement agents in Oregon learned through an informant that Jeffrey Battle was actively scoping out Jewish schools and synagogues for a terrorist attack. It later emerged that Battle was among a group that set out to train with al-Qaeda in Afghanistan (they never made it). Battle was plainly a time bomb, but his confederates had not yet been fully revealed—and there naturally was fear that if Battle were arrested and removed from the scene the investigators would lose their best hope of identifying other terrorists. Because the wall was down, the criminal investigators had the confidence to delay the arrest and continue the investigation, knowing the intelligence agents using FISA were now free to share what they were learning. As a result, not only Battle but six others, collectively known as the "Portland 7," were identified, convicted on terrorism-support charges, and sentenced to between three and 18 years in prison.

Thanks to Patriot's removal of the blinders, action—sometimes long overdue—has been taken against many other accused and convicted terrorists. Criminal investigators won access to a historic trove of intelligence demonstrating that Prof. Sami al-Arian had been using his University of South Florida redoubt as an annex of the deadly Palestinian Islamic Jihad group responsible for over 100 murders, including that of Alisa Flatow, a young American woman killed in an Israeli bus bombing. The sharing provisions also ensured the convictions of nine other defendants in Virginia, on charges ranging from support of the Qaeda-affiliated Lashkar-e-Taiba to conspiracy to levy war against the U.S.; the conviction in Chicago of bin Laden intimate Enaam Arnaout for using his Benevolence International Foundation as a conduit to fund terrorist cells in Bosnia and Chechnya, and of Khaled Abdel-Latif Dumeisi for working in the U.S. for Saddam Hussein's brutal Iraqi Intelligence Service; the indictment of a University of Idaho graduate student, Sami Omar al-Hussayen, for using his computer skills to support the recruiting and fundraising of Hamas and Chechnyan terror groups; the indictment in Brooklyn of two Yemeni nationals who bragged about having raised millions of dollars for bin Laden; and the smashing of a drugs-for-weapons plot in San Diego that solicited Stinger anti-aircraft missiles for the Taliban in exchange for heroin and hashish. Moreover, while much information provided by criminal investigators to the intelligence community must remain classified, the Justice Department also credits the sharing provisions with the revocation of visas for suspected terrorists, tracking and choking off of terrorist funding channels, and identifying of terrorists operating overseas.

21ST-CENTURY TACTICS

Besides paving the way for agents to pool critical information, Patriot has been invaluable in modernizing investigative tools to ensure that more information is actually captured. While the critics' persistent caviling misleadingly suggests that these tools are a novel assault on privacy rights, for the most part they merely

ROMAN GENN

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extend to national-security intelligence investigations the same methods that have long been available to law-enforcement agents probing the vast array of federal crimes, including those as comparatively innocuous as health-care fraud.

Among the best examples is the so-called "roving" (or multipoint) wiretap. As the telephony revolution unfolded, criminals naturally took advantage, avoiding wiretap surveillance by the simple tactic of constantly switching phones—which became especially easy to do once cellphones became ubiquitous. Congress reacted nearly 20 years ago with a law that authorized criminal agents to obtain wiretaps that, rather than aim at a specific telephone, targeted *persons*, thus allowing monitoring to continue without significant delay as criminals ditched one phone for the next. Inexplicably, this same authority was not available to intelligence agents investigating terrorists under FISA. Patriot rectifies this anomaly.

On the law-enforcement side, Patriot expands the substance of the wiretap statute to account for the realities of terrorism. Most Americans would probably be surprised to learn that while the relatively trivial offense of gambling, for example, was a lawful predicate for a criminal wiretap investigation, chemical-weapons offenses, the use of weapons of mass destruction, the killing of Americans abroad, terrorist financing, and computer fraud were not. Thanks to Patriot, that is no longer the case.

Analogously, Patriot revamped other telecommunications-related techniques. Prior law, for example, had been written in the bygone era when cable service meant television programming. Owing to privacy concerns about viewing habits, which the government rarely has a legitimate reason to probe, federal law made access to cable-usage records practically impossible—creating in service providers a fear of being sued by customers if they complied with government information requests. Now, of course, millions of cable subscribers—including no small number of terrorists—use the service not only for entertainment viewing but for e-mail services.

While e-mail-usage records from dial-up providers have long been available by subpoena, court order, or search warrant (depending on the sensitivity of the information sought), cable providers for years delayed complying with such processes, arguing that their services fell under the restrictive umbrella of prior cable law. This was not only a potentially disastrous state of affairs in terrorism cases, where delay can cost lives, but in many other contexts as well—including one reported case in which a cable company declined to comply with an order to disclose the name of a suspected pedophile who was distributing child pornography on the Internet even as he bragged online about sexually abusing a young girl. (Investigators, forced to pursue other leads, needed two extra weeks to identify and apprehend the suspect.) Recognizing that it made no sense to have radically different standards for acquiring the same information, Patriot made cable e-mail available on the same terms as dial-up.

Patriot also closed other gaping e-mail loopholes. Under prior law, for example, investigators trying to identify the source of incriminating e-mail were severely handicapped in that their readiest tool, the grand-jury subpoena, could be used only to compel the service provider to produce customers' names, addresses, and lengths of service—information often of little value in ferreting out wrongdoers who routinely use false names and temporary e-mail addresses. Patriot solved this problem by empowering grand juries to compel payment information, which can be used to trace the bank and credit-card records by which investigators ultimately establish identity. This not only makes it possible to identify potential terrorists far more quickly—and thus, it is hoped, before they can strike—but also to thwart other criminals who must be apprehended with all due speed. Such subpoenas, for example, have been employed repeatedly to identify and arrest molesters who were actively abusing children. The Justice Department reports that, only a few weeks ago, the new authority prevented a Columbine-like attack by allowing agents to identify a suspect, and obtain his confession, before the attack could take place.

Patriot has been invaluable in modernizing investigative tools to ensure that more information is actually captured.

Further, Patriot clarified such investigative matters as the methods for lawful access by investigators to stored e-mail held by third parties (such as AOL and other service providers). And it cured the incongruity that allowed agents to access voice messages stored in a suspect's own home answering machine by a simple search warrant but anomalously forced them to obtain a far more cumbersome wiretap order if the messages were in the form of voicemail stored with a third-party provider.

A LIBRARY OF RED HERRINGS

One Patriot reform that has been irresponsibly maligned is Section 215 of the act, which merely extends to national-security investigations conducted under FISA the same authority to subpoena business records that criminal investigators have exercised unremarkably for years. Indeed, even under Section 215, intelligence agents remain at a comparative disadvantage since they must get the approval of a FISA court before compelling records production while prosecutors in criminal cases simply issue grand-jury subpoenas. Nonetheless, this commonsense provision came under blistering, disingenuous assault last year when the ACLU and others raised the red herring of library records—which are not even mentioned in the statute. In 2002, for example, the *Hartford Courant* was compelled to retract in full a story that falsely accused the FBI of installing software on computers in the Hartford Public Library to monitor the public's use of the Internet. (In fact, the FBI had obtained a court-ordered search warrant to copy the hard drive of a single computer that had been used criminally to hack into a business computer system in California.)

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In 2003, the ACLU issued a warning that Section 215 would allow federal "thought police" to "target us for what we choose to read or what Websites we visit." In reality, Section 215 (unlike criminal-grand-jury subpoena authority) expressly contains safeguards protecting First Amendment rights, and further provides that the attorney general must, twice a year, "fully inform" Congress about how the provision has been implemented. As of September 2003, the provision had not been used a single time—neither for library records nor, indeed, for records of any kind.

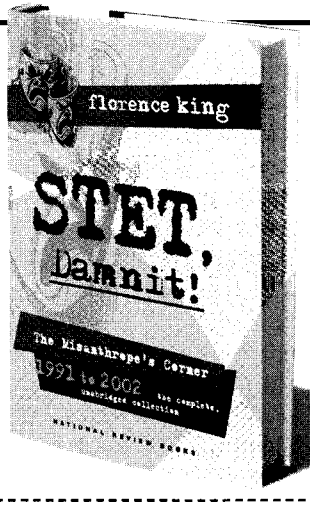
Unlike reading habits, financing—the lifeblood of terrorist networks—actually is a Patriot target. The act has significantly crimped the ability of overseas terrorists to use foreign banks and nominees to avoid seizures of their funds; it cracked down on the so-called "hawalas" (that is, unlicensed money-transmitting businesses) that have been used to funnel millions of dollars to terror groups; it extended the reach of civil money-laundering penalties—which loom large in the minds of financial institutions—against those who engage in transactions involving the proceeds of crime. And it further choked the funding channels by making currency smuggling itself (rather than the mere failure to file a report about the movement of currency) a crime, an initiative that bolsters the legal basis for seizing all, rather than a portion, of the smuggled funds. These and other Patriot finance provisions have enabled the government to obtain over 20 convictions to date and freeze over $130 million in assets worldwide.

Mention should also be made of another Patriot improvement that has been speciously challenged: the codification of uniform procedures for so-called sneak-and-peek warrants, which allow agents to conduct a search without seizing items, and delay notification to the person whose premises have been searched—thus ensuring that an investigation can proceed and agents can continue identifying other conspirators. Such warrants have been used for many years, and delayed notification has been a commonplace—just as it is in other areas, such as wiretap law, where alerting the subject would prematurely end the investigation.

Sneak-and-peek delayed notification, however, evolved through federal case law rather than by statute, and consequently there was a jumble of varying requirements depending on which federal circuit the investigation happened to be in. All Patriot did in this regard was impose a uniform national standard that permits delay if notification could cause endangerment to life, facilitation of flight, destruction of evidence, intimidation of witnesses, or similar substantial jeopardizing of investigations. Yet critics drummed up outrage by portraying sneak-and-peek as if it were a novel encroachment on privacy rather than a well-established tool that requires prior court approval. So effective was this campaign that the House of Representatives responded by voting to deny funding for the delayed-notification warrants. Inability to delay notification, of course, would defeat the purpose of using sneak-and-peek in the first place. The Senate has not seemed inclined to follow suit, but that so prudent a provision could become the subject of controversy illustrates how effectively the opposition has discredited the Patriot Act.

Palpably, the Patriot Act, far from imperiling the Constitution, went a long way toward shoring up the perilous state of national security that existed on the morning of 9/11. That is why it is so excruciating to note that, despite all we have been through, we will be transported right back to that precarious state if Congress fails to reauthorize Patriot. Because of intense lobbying by civil-liberties groups instinctively hostile to anything that makes government stronger—even in the arena of national defense, where we need it to be strong if we are to have liberties at all—Patriot's sponsors had to agree, to secure passage, that the act would effectively be experimental. That is, the information sharing, improved investigative techniques, and several other provisions were not permanently enacted into law but are scheduled to "sunset" on December 31, 2005. Dismayingly, far from grasping the eminent sense in making these improvements permanent, the alliance of Democratic Bush-bashers and crusading Republican libertarians is actually pushing a number of proposals to *extend* the sunset provision to parts of Patriot that were not originally covered.

At a time when the 9/11 Commission's public hearings highlight intelligence lapses and investigative backwardness—and when al-Qaeda publicly threatens larger-than-ever attacks while continuing to fight our forces and allies on the battlefield and in murderous attacks throughout the world—it is remarkable that elected officials would have *any* priority other than making the Patriot Act permanent. **NR**



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■ ESSAY

Perversion

An 'outdated' concept, desperately and perpetually needed

ROGER SCRUTON

FACED with the bad news from Abu Ghraib, we find ourselves reaching for old and distrusted concepts. Sexual humiliation, administered by women to men who have been stripped and bound, is tainted, we think, by perversion—indeed, it is a form of perversion. And then, having given voice to this idea, we find ourselves in forbidden territory. Owing to political correctness, nothing that adults do in private is now to be regarded as intrinsically disgusting. The idea that one person's action may be a violation and desecration of another person's body, even if the other consents to it, has almost slipped from our consciousness.

Almost, but not quite. For even the most polymorphously perverse among us will find acts and desires that disgust him. Even *he* will—if he has retained the capacity for love—recognize that the body of the person whom he desires is not an object to be used, but a subject to be venerated. Even he will recognize that there is such a thing, in sexual conduct and desire, as desecration. He may not use that word—for it belongs with terms like modesty, decency, and perversion, which drew the contours of those old restraints. But he will be aware, nevertheless, that there is more to sexual morality than consent, and that this "more" arises because desire is both a creator and a destroyer of human happiness.

Hence almost all of us, however emancipated from the old sexual constraints, retain a sense that certain acts are out of bounds, not to be performed, disgusting in themselves, whether or not consented to. This sense of disgust is malleable. Like every culturally generated emotion, disgust is minutely sensitive to changes in social expectations and in the perceived judgment of others. But it has survived the years of sexual liberation, and now roams unattached in our emotions, haunting us like the ghost of someone whom we failed to mourn.

This may help to explain some of our current confusions. The sexual revolution tried to sweep away all "irrational" barriers, all "prejudices," all forms of "repression" or "taboo." Indeed repression was identified as the only *true* sexual sin. For the advocates of liberation, the sins of sex were not, as we once had thought, sins of pleasure but sins against pleasure. And the most important sin against pleasure is the sense of sin itself: the attitude that misleads us with ideas of perversion and shame. Take away the sense of sin and the pleasure garden lies open before us.

But a pure ethic of liberation is unworkable. A person may lose the sense of sin without freeing his partner from the sense of being sinned against. John's cheerful enjoyment may be Mary's distress-filled violation. To free our desires is not, therefore, to free ourselves from the need for a common code of conduct. And it is our attempts to formulate this new common code that reveal the deep confusion introduced by the sexual revolution. One concept, and one concept only, provides the foundation of the new sexual morality, and that concept is consent. Whatever is done with the consent of both parties is put beyond judgment, made sacrosanct by our shared commitment to the freedom of the individual. To describe what is done as nevertheless a perversion is to breach the barrier of privacy, to sweep aside the warning that tells us, "Thou shalt not judge."

END OF INNOCENCE

For many a libertarian, pedophilia is wrong, not because it is the exploitation of innocence or the besmirching of the body of a child, but because children are not yet ready to consent to sex. The defect lies, not in the nature of the act, but in its inherent unfreedom. But this merely puts back the moral question, which is why we should demand, of the sexual act, precisely the level of consent of which a child is deemed to be incapable. Why should we believe that this act can occur only between those capable of taking full responsibility for its effects, including its effects on their bodies and its effects on their souls?

Study the recent scares and scandals involving pedophilia and you will quickly see that the reference to consent is merely a diversion. The real moral evil lies in the act itself, and in the damage done to a child by the one who breaks into this forbidden territory. Looking back in later life on acts that may have been experienced at the time with pleasure, the victim of pedophilia feels destroyed: not just humiliated but steeped in self-disgust and horror. Such victims will not be disturbed by the thought that their consent was never obtained, nor even by the thought that consent was in a certain sense unobtainable. The disturbing thought focuses on the abuse of their body, its palpation and penetration by someone eager to wreck its innocence. In short, the remembered act will be understood as a desecration. And in that lies its evil.

This, surely, is why we should describe pedophilia as a perversion. Pedophilia is a paradigm case of a desire that is aiming in the wrong direction, a desire perverted from its legitimate course, towards a target that is out of bounds. The legitimate course of desire is towards mutual and reciprocal surrender, in which the partners are united through their bodily union, and in which each is wanted as a person and not just as a body. It is difficult to define this goal without using the kinds of abstraction that I have just employed; but we don't need to define it, since the poets have invoked it time and again. And the invocations of the poets confirm the fundamental moral fact, which is that desire, in its legitimate course, is innocent. This does not mean that its *expression* is always innocent. For desire may find an outlet in adultery or some other guilty act. But what makes these

Mr. Scruton is the author of, among many other books, *Death-Devoted Heart: Sex and the Sacred in Wagner's* Tristan and Isolde, and *The West and the Rest: Globalization and the Terrorist Threat.*

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acts guilty is not the desire that prompts them, but the social chaos that they engender. What is immoral is not the desire, but the disposition to give way to it.

It seems to me, therefore, that we need the concept of perversion. We need to distinguish normal and natural desire—desire that wants and respects the person of the other—from its abnormal and deviant caricature. Perverted desire desecrates what lovers consecrate. Perversion involves a ransacking of the body, an expulsion of the other from his flesh, a discarnation. If it is true that an American woman soldier has forced Iraqi prisoners to masturbate before her eyes, then it is entirely understandable that we should think of her as perverted—assuming always that her motive was sexual. Hers was a desire that humiliates its target, a desire that excludes the other from its aim, forces him to flee like a shadow behind a body that has become curious, mechanical, and dispossessed. For similar reasons we should view rape as a perversion.

REDEFINING PERVERSION

If we rehabilitate the concept of perversion in that way, we will be far better equipped to explain and justify our normal moral perceptions than when relying on the idea of consent alone. We can explain just why it is that rape is so serious a crime, so much more serious than theft, despite being, like theft, a seizure of another's possession without her consent. We can justify our anger at the pedophile, and explain our disgust towards the acts of sado-masochism described in the novels of the Marquis de Sade.

But there are other consequences that might trouble both liberals and conservatives. Liberals, who have endorsed the judicial precedents protecting pornography under the First Amendment, will be troubled by the argument that pornography is an invitation to perverted desire. Yet I do not see how we can draw any other conclusion, once we recognize that pornography aims to focus sexual interest on the sexual act, without regard for the person who performs it, and severed from the experience of reciprocal surrender, which is the aim of normal desire.

Conservatives too might be troubled by a concept of perversion that lets homosexuality so easily off the hook. Of course, there is the rampant bath-house promiscuity that some might reasonably liken to pornography, in its fetishistic and phallic focus. But we can legitimately regard this as a perversion while refusing to accept that the perversion stems from the homosexuality. And I think that this is part of what underlies the pressure towards gay marriage—namely, the wish to distinguish the normal from the perverted, without assuming that homosexuality is in itself the cause of either. A normal homosexual desire seeks union with another person just as does the normal desire of man for woman or woman for man. It becomes perverted in the same way, by being deflected from this interpersonal relation towards an act that demeans, objectifies, and desecrates its object. And the normal desire seeks to vindicate itself in a moral commitment, in homosexual just as in heterosexual relationships. So why stop short of marriage?

It is perhaps a useful step towards the resolution of a socially divisive issue, if we can use the concept of perversion not just to criticize gay sex, but also to accept it. That said, however, it is clear that more is at stake in the question of gay marriage than this one, of accepting the existence of innocent homosexual desire. Marriage has been treated, in our society, as a sacrament, whereby two people consecrate their lives not just to each other but to the family that will spring from them. In no sense is marriage, so conceived, merely the rubber-stamping of a sexual contract. It marks an existential transition, a move away from the concerns of one generation towards a concern for the next. It is not an act of gratification but an act of renunciation, the beneficiaries of which are not the spouses themselves, but their future children. Without marriage, as we are beginning to see, societies do not reproduce themselves. Hence to treat marriage as a human toy, that can be redesigned at will and for the pleasure of the merely living, is to jeopardize the rightful hopes of those unborn. Even if gay marriage does not involve perversion, therefore, to defend it is surely perverse. **NR**

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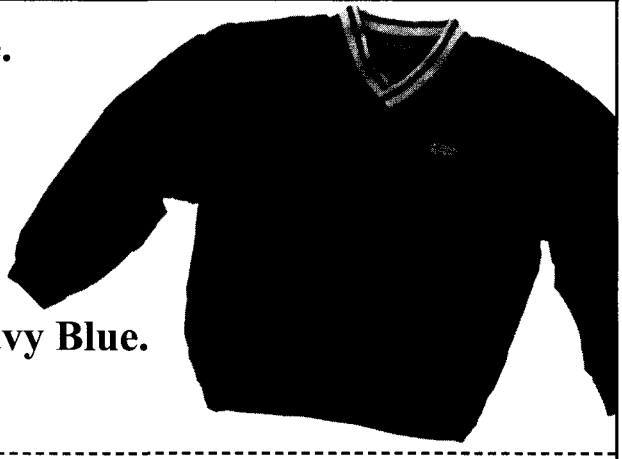

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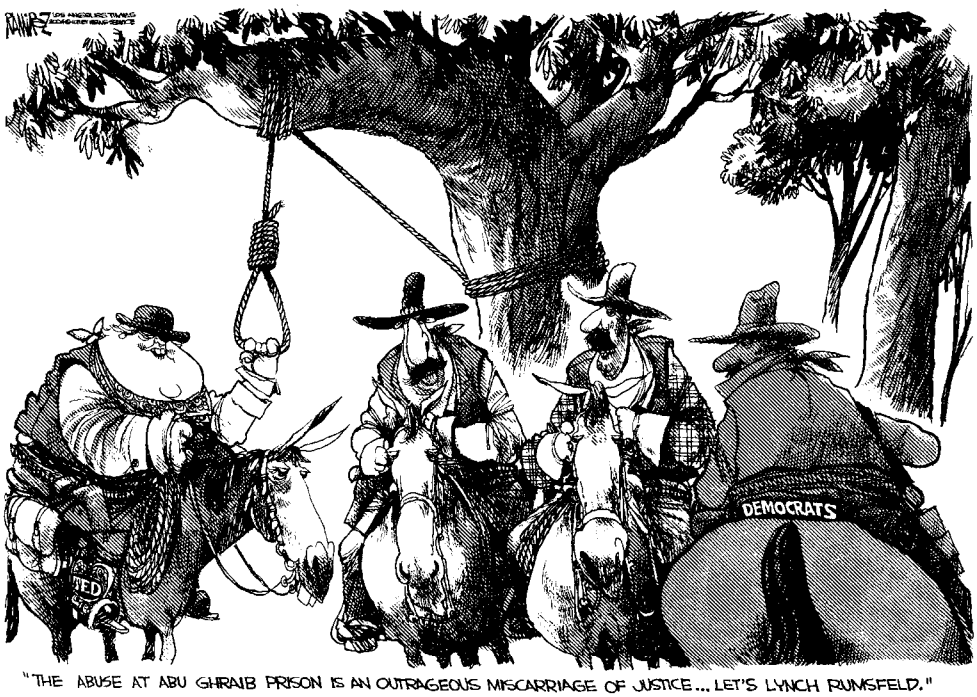

"THE ABUSE AT ABU GHRAIB PRISON IS AN OUTRAGEOUS MISCARRIAGE OF JUSTICE... LET'S LYNCH RUMSFELD."

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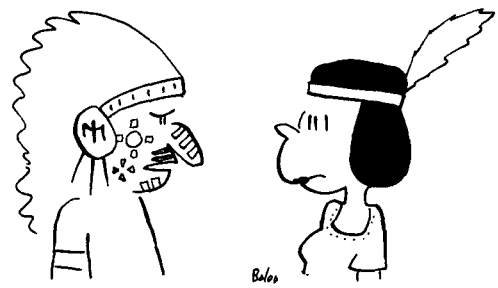
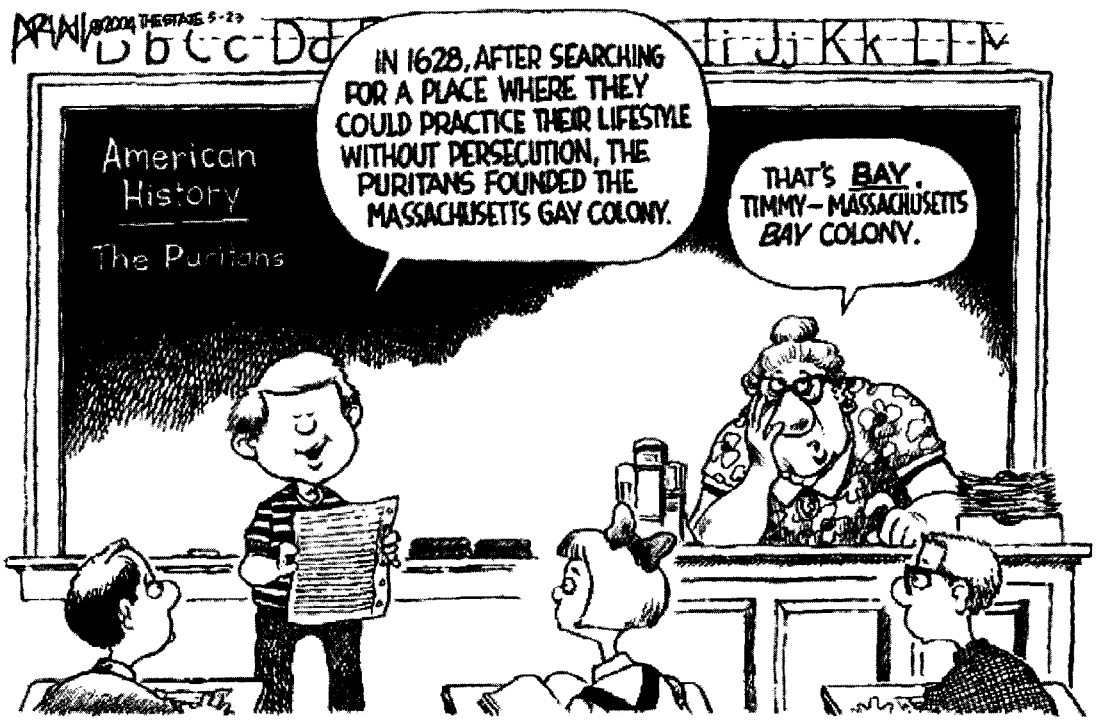
Slippery John

In a move too sly by far,
Kerry, whose cash cookie jar
Overflows with online cash,
Wants to make a bigger splash
By postponing—it's a reach—
His prescribed acceptance speech
Until Bush delivers his.
Hey John, cut the monkey biz.

—W. H. von Dreele



"What's this I hear about you using the White Man's cosmetics?"


IN 1628, AFTER SEARCHING FOR A PLACE WHERE THEY COULD PRACTICE THEIR LIFESTYLE WITHOUT PERSECUTION, THE PURITANS FOUNDED THE MASSACHUSETTS GAY COLONY.
THAT'S BAY, TIMMY—MASSACHUSETTS BAY COLONY.
American History
The Puritans

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the long view

ROB LONG

Summer Travel Roundup

Special Yankee Go Home Edition™

Places to Stay in Berlin:

Hotel Kugelhopf: Charming, stately, wonderful old grande dame of Berlin hotels, with gilded mirrors in the halls, sumptuous lobby, and a turn-of-the-century bar. The service is impeccable: the concierge is top-rate, and the slight-of-frame bellman with the wispy beard will delight you as he peppers you with questions about your political beliefs and asks you to repudiate Bush administration policy on Iraq and Global Warming. Full spa.

Hotel SuperFantastiche: Hip, chic, and cutting edge, this hotel is the ultimate place to see and be seen. The design is up-to-the-minute, with clean lines and colorful furniture arranged in a dynamic way. You'll see why people are calling Berlin the "New Design City" and the "Opinion and Tastemakers City" as you sit in the hip hotel bar, eyes stinging from the cigarette smoke, trying to politely dispute the assertion of the people seated on your left, and right, that there's very little difference between Saddam Hussein and George W. Bush. Lobby has a DJ.

Gasthaus Kaisersmarren: Classic Berlin guesthouse, with a wrought-iron staircase, tall windows, a ginger cat, and over-stuffed furniture. Rooms are small but make up for it in atmosphere. If you're Jewish, you'll really, really feel uncomfortable. An experience! MC and Visa only.

Things to Do in London:

At the Strand Theatre: "Eat the F***ing Americans!" A darkly funny, bitterly satirical look at the lives of two "yobs"—youths without hope or prospects—who decide to take it out on American tourists. Furious about Bush administration policy, especially as regards the Kyoto Protocols, and deeply committed to turning back the tide of globalism, they set about hilariously—and darkly—to kill and then eat every American tourist they can. Profane, violent, and deeply provocative, this two-man play premiered in Edinburgh, and has been running continuously since then. Soon to be a major film. Student/rush tickets available.

At the Lord Hammersley Theatre: "The Patriot Act." A searing, furious return to the "angry young man" style of the early 1960s. In this devastating dissection of current Bush administration policy, two gay men—one of whom is a born-again Christian, the other of whom is a Scandinavian environmentalist—find themselves, on the day of their wedding, arrested and held without trial on shadowy charges of terrorism. A shocking indictment of American society and mores.

At the Cheddar Biscuit Theatre: "No Sex, Please, We're Too Fat!" An instant classic! British farce at its best! A country-house weekend, mistaken identities, frantic attempts at seduction, and two fat Americans who are unable to explain or defend current Bush administration policy. Side splitting! Ask your hotel concierge about after-theater dining options.

Places to Eat in Paris:

Le Bistrot des Yeux Coverts: This classic French bistrot dates back to the occupation of Paris by the Prussian army. High ceilings, brass fixtures, and a bustling atmosphere will add to your enjoyment of perfectly prepared bistrot standbys: cassoulet, steak frites, and soupe à l'oignon. You will not have to worry about discussing Bush or Iraq with any French people, because you will be seated upstairs, with the other Americans. $$$

Café L'Ingratitude: Famous for its clientele, among whom were some of France's most well-known philosophes and writers, and for its colorful history—ask to see table 9, where all of the members of the French Resistance in World War II would meet for dinner—and equally notorious for its ten-dollar cup of coffee, the Café L'Ingratitude still has attitude and style to spare. Traditionally a place of conversation and political debate, American visitors to the café may feel more comfortable if they establish their anti-Bush credentials early, by ostentatiously reading the *International Herald Tribune*.

Restaurant Le Nez en Haut: Formal, classic French dining in a sumptuous room decorated entirely in the Empire style. The service is almost too perfect to be believed. You will be identified as an American even before entering the restaurant, and some say even before turning onto the street in the staid 9th arrondissement. With characteristic French style, you will be seated away from the other diners, though somehow adjacent to the cigar-smokers, and will be led through nine courses of culinary perfection.

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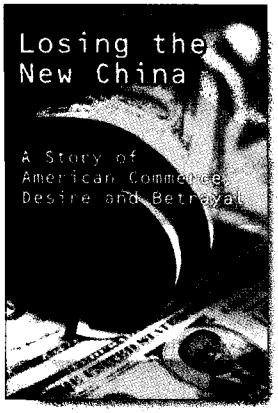
China, Scrutable



Losing the New China: A Story of American Commerce, Desire and Betrayal, by Ethan Gutmann (Encounter, 253 pp., $25.95)

JAY NORDLINGER

EVERY once in a while comes a book to stir your slumber, and this is one. It is about the New China, and just how new it is—how decent or promising. Ethan Gutmann set out to work in Beijing full of enthusiasm. (This was in the late 1990s.) He was a believer in "the power of free enterprise to transform societies," and, besides, he had "the China bug." He was not a naïf, mind you. He disregarded the "China optimists," who "pointed to the incremental evolution of the ruling Communist Party as if this justified unrestrained engagement," and also the "exiled Chinese dissidents," who "held that the system was near collapse and needed a good, hard shove, not economic props." He would look for a third way. Ha.

To put it mildly, the sadder, wiser Gutmann is a China skeptic—and with many good reasons.

Gutmann worked for a few years in Beijing, then did something extraordinarily useful: namely, this book. He has reported, clear-eyed, what he found in China, burning his bridges, spilling all the secrets. Secrets of whom? Mainly of the Americans who form sort of a permanent colony there. These Americans cooperate with the Chinese government to sustain the illusion of proper capitalism and progress. Gutmann is like some mammoth sociological, political whistleblower. And he blows it in irresistible style.

You can smell his Beijing. He is unvarnished about the Chinese, and unvarnished about the Americans. He offers a thousand insights, and a hundred character studies. The Chinese government—which lies as normal people breathe—helped stir the Chinese people into a hateful frenzy after the U.S. military's accidental bombing of the Chinese embassy in Belgrade. The next day, Gutmann's office mates (Chinese) demanded that his air conditioning be turned off. That is a tiny story to remember.

The author details how the Chinese government manipulates American politicians, American policymakers, and American businessmen, and how the Beijing Americans freely abet this manipulation. The Americans internalize the Party line, calling Falun Gong "a bunch of nuts," for example. Never mind the torture and murder. Gutmann's illustrations of American kowtowing are amazing. Our agents there mouth the mantra that "American business is *the* long-term catalyst for better human rights in China," and, despite what they know, they do this "with a straight face." They are also happy to do the Chinese government's work of blackballing peskily inquiring American journalists. The *Washington Times*'s Bill Gertz, for instance, is not welcome in China, or in the American colony.

The chapter called "Visiting Day" is one of Gutmann's best. It describes the Potemkin tours given U.S. congressmen, CEOs, and others, all in a game of "fool the foreigner." So a Gov. Jesse Ventura is moved to say, "I know when I've come face to face with the future."

From time to time, the Chinese government will do something really, really gross, and the conscience of an expat may prick. But the Americans tend to find ways to overcome this. At one point, our author "started slipping, sometimes blurting out 'police state' in discussions of China," as if he had "expat Tourette's syndrome." But he learned to control his tongue. So too, every American "strays into the Other China at some point," separate from the Beijing prepared for foreign eyes. But Americans duly shove this Other China from their minds. Many permanent colonists seem to have banished a sense of right and wrong as an inconvenient luxury. They are contemptible.

As our businesses in China can be. They practice not so much capitalism as bribery and deception (especially self-deception). One wag came up with a hilarious description of such businesses: "American companies with Chinese characteristics." The roll of dishonor includes Cisco, Motorola, and Microsoft. And special shame belongs to

AN ACCOMMODATION

Come into my pallor, said the old man to the fly,
Here's a little gift that you may open by and by.
By then it will mean less than nothing; I will not be I.

Once I was too quick for you: to meet me was to die.
Now I can but watch you as you pirouette on high.
Soon I will have forgotten there was something called a fly.

—ROBERT MEZEY

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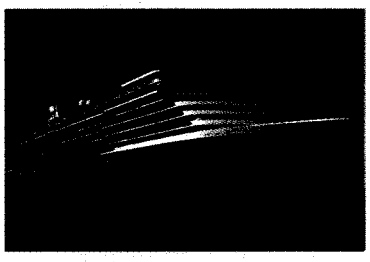
2004 Caribbean ...ing November 13–20 on Post-Election Cruise

A LUXURY VOYAGE FEATURING ALL-STAR SPEAKERS INCLUDING Renowned author VICTOR DAVIS HANSON, Islam expert BERNARD LEWIS, Republican party chairman ED GILLESPIE, acclaimed author DINESH D'SOUZA, Club for Growth boss STEPHEN MOORE, columnist MICHELLE MALKIN, and *NR* Editors RICH LOWRY, JAY NORDLINGER, RAMESH PONNURU, JOHN O'SULLIVAN, and JOHN DERBYSHIRE

I am pleased to announce our next exciting seafaring adventure: the ***National Review* 2004 Post-Election Caribbean Cruise.** Featuring an incredible cast of conservative celebrity speakers—and remarkably affordable accommodations (prices start at just $1,549 per person, and "singles" can get a luxurious room for only $1,899!)—this special trip will take place November 13-20, 2004, aboard Holland America Line's new MS *Zuiderdam*.

This wonderful journey will afford you the unique opportunity to meet some of America's most preeminent conservative celebrities: "definites" for this special voyage are the esteemed author **Victor Davis Hanson** (the renowned academic has become one of the most influential writers on America and terrorism—and with his new book, *Mexifornia*, also on immigration—since September 11), **Bernard Lewis** (the eminent Princeton professor is the world expert on Islam's bloody history with the West—his *What Went Wrong?* and *The Crisis of Islam* are *must*-reads), Republican National Committee chairman **Ed Gillespie**, economist and Club for Growth president **Stephen Moore**, acclaimed author **Dinesh D'Souza**, syndicated columnist **Michelle Malkin** (her 2003 immigration book, *Invasion*, caused a sensation!), National Review Online favorite **John Derbyshire**, *NR* Editor **Rich Lowry**, Senior Editor **Ramesh Ponnuru**, Managing Editor **Jay Nordlinger**, and Editor-at-Large (*and* editor of *The National Interest*) **John O'Sullivan** (we're awaiting RSVPs from other conservatives we've invited to participate in this special week of "topics and tropics").



Join them for seven relaxing days and nights of politics and policy, conservative revelry, and world-class luxury cruising.

As *NR* cruise alumni (there are thousands, the "typical" one has gone on three or four of our very *bon* voyages!) know, our trips are remarkable events, marked by scintillating political shoptalk, wonderful socializing, intimate dining with our editors and speakers, making new friends, the rekindling of old friendships—and, of course, grand cruising. That's what's in store for you on the ***National Review* 2004 Post-Election Caribbean Cruise.**

There are countless reasons for you to come, but none bigger than the luminaries who will be joining us for this luxury trip—what a truly extraordinary gathering! It's one of the best ensembles we've ever had on an *NR* cruise, which guarantees that our seminar sessions—featuring ample audience "Q & A"—will be fascinating.

- ✔ Where does one *begin* to question **Bernard Lewis** about the brutal revival of the millenium-old struggle between Islam and the West?!
- ✔ Ditto for **Victor David Hanson**, who will share his expertise on the moral struggle required for America and democratic nations to battle terrorism and defend freedom.
- ✔ Who is *better* positioned to discuss the state and fate of the Republican Party than chairman **Ed Gillespie** (who wrote great pieces for *NR* once upon a time before he took over the GOP)?!
- ✔ Who can give keener insight on the war between conservatives and RINOs (Republicans In Name Only) than Club for Growth boss **Stephen Moore**? Or a sounder assessment of red-hot cultural issues (like campus "diversity" and immigration) than the brilliant **Michelle Malkin** and **Dinesh D'Souza**?!
- ✔ And they'll be joined in all the ruminating, elucidating, and analyzing of the 2004 elections and their aftermath (President Kerry?!) by *NR*'s editorial heavyweights, led by **Rich Lowry**, who will be ably assisted by **John O'Sullivan**, **Ramesh Ponnuru**, **Jay Nordlinger**, and NRO headliner **John Derbyshire**.

ENJOY SEVEN BALMY DAYS AND COOL CONSERVATIVE NIGHTS!

DAY/DATE	PORT	ARRIVE	DEPART	SPECIAL EVENT
SAT/Nov. 13	Ft. Lauderdale		5:00 PM	
SUN/Nov. 14	Half Moon Cay	8:00 AM	4:00 PM	morning Catholic Mass evening cocktail reception
MON/Nov. 15	AT SEA			morning/afternoon seminars late-night smoker
TUES/Nov. 16	St. Thomas, USVI	8:00 AM	12 Midnight	
WED/Nov. 17	Tortola, BVI	7:00 AM	6:00 PM	evening cocktail reception
THURS/Nov. 18	AT SEA			morning/afternoon seminars late-night smoker
FRI/Nov. 19	Nassau, Bahamas	12 Noon	7:00PM	morning seminar evening cocktail reception
SAT/Nov. 20	Ft. Lauderdale	8:00AM		

We so want you to "experience" these conservative luminaries that we've engineered remarkably affordable prices, starting as low (indeed, our *lowest* prices *ever*!) as $1,549 (p/p). And singles can get their own cabin for just $1,899! That *includes* all

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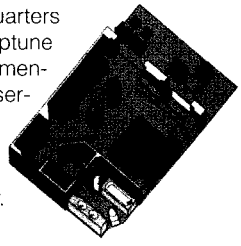
Holland America Line's MS *Zuiderdam*

STUNNING, SPACIOUS, LUXURY CABINS START AT JUST $1,549 PER PERSON!

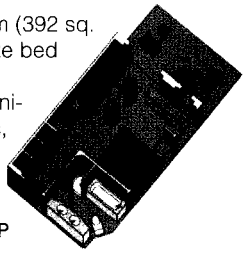
Superior service, gourmet cuisine, elegant accommodations, and great entertainment await you on the beautiful *Zuiderdam*. Prices are per-person, based on double occupancy, and include port fees, taxes, gratuities, transfers (for those booking airfare through Holland America), all meals, entertainment, and admittance to and participation in all *National Review* functions. Rates for third/fourth person in cabin:

Age	Categories S, SS & A	Category D	Category K
19+	$1092	$991	$889
2-18	$842	$741	$639



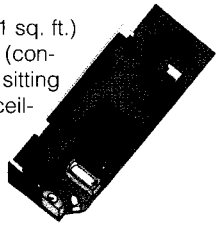
DELUXE SUITE Magnificent luxury quarters (563 sq. ft.) features use of exclusive Neptune Lounge and Personal Concierge, complimentary laundry, pressing and dry cleaning service. Large private verandah, king-size bed (convertible to 2 twins), whirlpool bath/shower, dressing room, large sitting area, DVD, mini-bar, and refrigerator.

Category S
DOUBLE OCCUPANCY RATE: $ 3,599 P/P
SINGLE OCCUPANCY RATE: $ 4,999



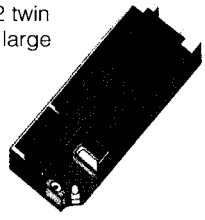
SUPERIOR SUITES Grand stateroom (392 sq. ft.) features private verandah, queen-size bed (convertible to 2 twin beds), whirlpool bath/shower, large sitting area, DVD, mini-bar, refrigerator, floor-to-ceiling windows, and much more.

Category SS
DOUBLE OCCUPANCY RATE: $ 2,799 P/P
SINGLE OCCUPANCY RATE: $ 3,599



DELUXE OUTSIDE Spacious cabin (241 sq. ft.) features private verandah, queen-size bed (convertible to 2 twin beds), bath with shower, sitting area, mini-bar, tv, refrigerator, and floor-to-ceiling windows.

Category A
DOUBLE OCCUPANCY RATE: $ 2,399 P/P
SINGLE OCCUPANCY RATE: $ 3,199



LARGE OCEAN VIEW Comfortable quarters (190 sq. ft.) features queen-size bed (convertible to 2 twin beds), bathtub with shower, sitting area, tv, large ocean-view windows.

Category D
DOUBLE OCCUPANCY RATE: $ 1,899 P/P
SINGLE OCCUPANCY RATE: $ 2,399

LARGE INSIDE Cozy but ample cabin quarters (185 sq. ft.) features queen-size bed (convertible to 2 twin beds), bathtub with shower, sitting area, tv, large ocean-view windows.

Category K
DOUBLE OCCUPANCY RATE: $ 1,549 P/P
SINGLE OCCUPANCY RATE: $ 1,899

those "extras" like port fees, taxes, and gratuities! Just look at the chart on the left and check out our phenomenal rates.

We've made it so affordable that you simply *can't* miss this trip.

Of course, the special "extras" that *NR* brings—the seminars, receptions, and intimate dining with speakers—come on top of the great cruise, which takes place on the beautiful MS *Zuiderdam*. Still gleaming from her recent inaugural, she's Holland America's classiest vessel. You'll find the accommodations to be truly luxurious, matched only by the indulgent, courteous staff, superior cuisine, and top-notch entertainment and excursions.

The *National Review* 2004 Post-Election Caribbean Cruise features sunny itinerary—our voyage will visit Half Moon Cay (Holland America's glorious private island), the Virgin Island ports of St. Thomas and Tortola, and Nassau in the Bahamas. Tours, watersports, napping on a hammock on a pristine beach, quaffing a cool libation under a palm tree—get ready for a week of fun and R&R.

Of course, you can experience that on many a cruise. But what you can experience *only* on an *NR* cruise are those exclusive extras that make up our extensive program. Over the course of the week we will be holding (and we hope *you* will be enjoying!)at least five seminars (each brimming with two-plus hours of bite and wit as our panels of experts make sense out of current events and the recent elections, and divine what's ahead in Washington and elsewhere for 2005 and beyond), three cocktail parties (hot hors d'ouevres, cool drinks, and warm friendships), and two late-night poolside smokers—featuring **H. Upmann**'s wonderful cigars and complimentary cognac. And on top of all that comes dining with our guests: On at least two nights you'll enjoy intimate dinners with of our speakers and *NR* editors.

Sign up now. Use the application on the following page (it provides pricing on Holland America's affordable "Fly Cruise" airfare program) to reserve your stateroom, or order it directly (and immediately) on our special website—**www.nationalreviewcruise-carib.com**.

Take the trip of a lifetime with some of America's most preeminent intellectuals, policy analysts, and political experts—**Victor Davis Hanson, Bernard Lewis, Ed Gillespie, Dinesh D'Souza, Michelle Malkin, Stephen Moore**,and *NR* Editors **Rich Lowry, Ramesh Ponnuru, Jay Nordlinger, John O'Sullivan,** and **John Derbyshire**—on the ***National Review* 2004 Post-Election Caribbean Cruise.**

BOOK YOUR LUXURY CABIN NOW—CALL THE CRUISE AUTHORITY AT 1-800-707-1634 OR VISIT US AT WWW.NATIONALREVIEWCRUISE-CARIB.COM

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The National Review 2004 Post-Election Cruise Application

Mail to: National Review Cruise, The Cruise Authority, 1307 Powers Ferry Rd., Marietta, GA 30067-5409 or Fax to 770-916-1425

Please fill out application completely and mail with deposit check or fax with credit-card information. One application per cabin. If you want more than one cabin, make copies of this application. For questions call The Cruise Authority at 800-707-1634.

Personal

Shirt size (M/L/XL)

Name #1 (full legal name) + Nickname

Shirt size (M/L/XL)

Name #2 (full legal name) + Nickname

Names #3 & #4 (if taking others in your cabin)

Street Mailing Address

( )

City State ZIP

Daytime Phone

Special Information (medical conditions, celebrating anniversary, etc.)

Payment

A deposit of $350 **per person** is due with this application. If paid by credit card, balance will be charged to *same* card on 8/13/04 unless otherwise directed. If application is received after 8/14/04, the full amount of cruise will be charged. Cabins and categories are available on a first come, first served basis. *Suites are limited!*

☐ My deposit of $350 **per person** is included.
(Make checks payable to "National Review Cruise")

☐ Charge to: AmEx ☐ Visa ☐ MasterCard ☐ Discover

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Expiration Date (Month) ☐☐ (Year) ☐☐

Authorized Signature of Cardholder/Guest

Information and price quote on Cancellation Fee Waiver/Medical Insurance will accompany your statement. Cancellation Penalty Schedule follows (cancellations must be received in writing by the date indicated):

PRIOR *to June 14, 2004*	*$75 per person*	
June 14, 2004 to Augus 13, 2004	*$350 per person*	
AFTER *August 13, 2004*	*100% of cruise/package*	05/31/NR

Cruise

(All rates are per person, double occupancy, and include all port charges and taxes, all gratuities, meals, entertainment, and *National Review* activities. Cruise-only rates include all of above except airfare and transfers. Failure to appear for embarkation for any reason constitutes a cancellation subject to full penalties. Personal items not included.)

PLEASE CHECK ALL APPLICABLE BOXES!

I. CABIN CATEGORY *(see list and prices on previous page)*

First cabin category choice:_____ Second cabin category choice:_____

Bedding: Beds made up as ☐ Twin ☐ King/Queen

BOOKING SINGLE? ☐ Please try to match me with a roommate. (My age: ____)

II. AIR/TRANSFER PACKAGES

☐ We will provide our own roundtrip air and transfers to and from Ft. Lauderdale.
☐ Include air with our package from _____ (see list below).
☐ We need to purchase transfers from the airport to the ship at $24 per person.

III. GENERAL INFORMATION

CITIZENSHIP: Is everyone a U.S. citizen? ☐ Yes ☐ No
If No, indicate citizenship: _____
DINING: I wish to dine with _____

DINNER: ☐ 8:15PM ☐ 6:15PM (conflicts with dining with speakers/events)

IV. PRE- AND POST-CRUISE TOUR PACKAGES

☐ Please send me information on pre-/post-cruise packages in South Florida.

Important!

Everyone cruising will be required to bring either a valid passport OR a certified birth certificate (with raised seal!), plus photo ID. Failure to do so may result in being denied boarding of the *Zuiderdam*. Children do not require photo ID.

Responsibility: Notice is hereby given that the cruise advertised herein, including all tickets, vouchers and coupons issued and all arrangements for transportation or conveyance or for hotel or lodging or for sightseeing services are made by H20 Ltd. d/b/a The Cruise Authority (TCA) on behalf of *National Review*, as agency for Holland America Line (HAL), and/or service providers and/or suppliers providing services necessary for operation of the tour upon the express condition that TCA shall not be liable for injury, damage, loss, accident, delay or irregularity to any tour participant or his or her property that may result from any act or omission of any company, contractor or employee thereof providing services in connection with the tour, including but not limited to transportation, lodging, food and beverage, entertainment, sightseeing, luggage handling and tour guiding. Furthermore, TCA cannot be held responsible for delays or costs incurred resulting from weather and road connections, breakdowns, strikes, riots, acts of God, authority of law or other circumstances beyond its control. In the event that a participant be entitled to a refund of monies paid, TCA will not be liable in excess of amount paid. TCA reserves the right to decline any persons as a tour participant at any time. TCA is not responsible for price increases imposed by HAL and/or service providers. Such increases may be implemented prior to deposit received. TCA is not responsible for breach of contract or any intentional or careless actions or omissions on the part of HAL and/or service providers, such as suppliers of tours or other services used or obtained on or at the time of the cruise or shore excursions, which result in any loss, damage, delay or injury to you or your travel companions or group members. TCA does not guarantee any of such suppliers rates, booking or reservations and TCA shall not be responsible for any social or labor unrest, mechanical or construction difficulties, diseases, local laws, climate conditions, acts of war—declared or undeclared, acts of terrorism, abnormal conditions or developments or any other actions, omissions or conditions outside of TCA's control. TCA, nor *National Review* shall be responsible for the accessibility, appearance, actions or decisions of those individuals promoted for this cruise. By embarking upon his or her travel, the traveler voluntarily assumes all risks, and is advised to obtain appropriate insurance coverage against them. Retention of tickets, reservations, or package after issuance shall constitute a consent to the above and an agreement on your part to convey the contents hereof to your travel companions.

AIR TRAVEL: Holland America's "Fly Cruise" Program, which offers convenient round-trip, economy-class air transportation (First Class air is available on request; you cannot use frequent flyer points to upgrade these airfares to First Class)—and all baggage and transfers—from the following cities:

Akron/Canton, OH	379	Burlington, VT	409	Elmira, NY	396	Indianapolis, IN	420	Milwaukee, WI	389	Philadelphia, PA	390	Shreveport, LA	439
Albany, NY	409	Cedar Rapids, IA	470	Erie, PA	393	Islip/Long Island, NY	509	Minneapolis/St. Paul, MN	470	Phoenix, AZ	539	Sioux Falls, SD	376
Albuquerque, NM	519	Champaign, IL	459	Evansville, IN	456	Jackson, MS	489	Minot, ND	647	Pittsburgh, PA	389	South Bend, IN	499
Allentown, PA	410	Charleston, SC	366	Fargo, ND	590	Jacksonville, FL	359	Missoula, MT	697	Portland, ME	429	Spokane, WA	695
Amarillo.TX	473	Charleston, WV	410	Flint, MI	480	Joplin, MO	436	Mobile, AL	439	Portland, OR	540	Springfield, IL	480
Anchorage, AK	569	Charlotte, NC	385	Fresno, CA	596	Kansas City, MO	439	Moline, IL	460	Providence, RI	439	Springfield, MO	480
Asheville, NC	379	Chattanooga, TN	490	Ft. Wayne, IN	489	Knoxville, TN	429	Monroe, LA	366	Raleigh, NC	447	St. Louis, MO	440
Atlanta, GA	350	Chicago, IL	440	Grand Forks, ND	587	Lacrosse, WI	500	Montgomery, AL	406	Rapid City, SD	585	Syracuse, NY	406
Augusta, GA	420	Cincinnati, OH	429	Grand Junction, CO	685	Lansing, MI	529	Myrtle Beach, SC	370	Reno, NV	577	Tallahassee, FL	279
Austin, TX	466	Cleveland. OH	370	Grand Rapids, MI	429	Las Vegas, NV	569	Nashville, TN	419	Richmond, VA	409	Tampa, FL	218
Baltimore, MD	389	Colorado Springs, CO	586	Great Fall, MT	697	Lexington, KY	500	New Orleans, LA	370	Roanoke, VA	410	Toledo, OH	430
Bangor, ME	439	Columbia, SC	370	Green Bay, WI	530	Lincoln, NE	486	New York, NY (JFK)	397	Rochester, MN	490	Tri Cities, TN	439
Baton Rouge, LA	389	Columbus, OH	380	Greensboro, NC	396	Little Rock, AR	420	New York, NY(LGA)	388	Rochester, NY	409	Tucson, AZ	536
Billings, MT	695	Corpus Christi, TX	469	Greenville-Spar., SC	366	Los Angeles, CA	539	Newark, NJ	368	Sacramento, CA	590	Tulsa, OK	469
Binghamton, NY	639	Dallas-Ft. Worth, TX	448	Harlingen, TX	450	Louisville, KY	419	Norfoik, VA	389	Saginaw, MI	479	Wash. DC (Dulles)	389
Birmingham, AL	429	Davenport/Moline, IA	460	Harrisburg, PA	409	Lubbock, TX	466	Oakland, CA	636	Salt Lake City, UT	590	Wash. DC (Reagan)	400
Bismarck, ND	597	Dayton, OH	410	Hartford, CT	416	Lynchburg, VA	410	Oklahoma City, OK	469	San Antonio, TX	459	Waterloo, IA	550
Boise, ID	767	Denver, CO	540	Helena, MT	695	Madison, WI	530	Omaha, NE	436	San Diego, CA	539	Wichita, KS	469
Boston, MA	424	Des Moines, IA	490	Honolulu, HI	866	Manchester, NH	439	Ontario, CA	586	San Francisco, CA	540	Wilkes/Scranton, PA	410
Bozeman, MT	595	Detroit, MI	469	Houston, TX	377	McAllen, TX	386	Orange County, CA	586	San Jose, CA	590	Wilmington, NC	409
Bristol/Tri Cities, TN	439	Dulles (Wash. DC)	389	Huntington, WV	399	Medford, OR	747	Orlando, FL	198	Santa Barbara, CA	636		
Buffalo, NY	399	Duluth, MN	670	Huntsville, AL	339	Memphis, TN	436	Pensacola, FL	339	Savannah, GA	410		
Burbank, CA	666	El Paso, TX	466	Idaho Falls, ID	747	Midland/Odessa, TX	436	Peoria, IL	460	Seattle/Tacoma, WA	540		

IMPORTANT NOTES: 1. These air add-ons apply to the cruise or cruise + pre- or post-cruise package. All transfers for air/sea passengers are included. **2.** For some West Coast cities the cruise line cannot provide air service to Ft. Lauderdale in time to connect with the transfer to the *Zuiderdam* on Nov. 13. In this instance, you must fly to Ft. Lauderdale the night prior to the cruise. The cost for the overnight and transfers is $80 per person double occupancy and $130 per person single occupancy. **3.** Should you elect to provide your own air transportation, note that transfers from the airport to the *Zuiderdam* (Port Everglades) are not included, but are available for purchase $24pp roundtrip. Schedule your arrival in Ft. Lauderdale (FLL) leaving plenty of time for flight delays! Arrive no later than 1:00pm on Nov. 13th. Return flights from Ft. Lauderdale should not be arranged before 12:00 noon on Nov. 20th. **4.** Should you wish to deviate your air from the "standard" schedule, Holland America Line" charges $50pp for this service. All requests must be sent in writing to The Cruise Authority. Air deviation fees are non-refundable. **5.** Any special seat assignments or other requests must be made directly with the participating air carrier. You will receive your air schedule approximately 30 days prior to departure. **6.** Fees will apply to any changes to existing air reservations made within 65 days of travel or deletion/ cancellation of the Fly-Cruise Plan from your booking within this same time period.

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Nortel (a Canadian firm), which presented an Internet surveillance mechanism "specifically designed 'to catch Falun Gong.'"

Possibly worse, North American business is unable to make much money in China! In Gutmann's experience, "few corporate leaders in Beijing would assert in private that China was a profitable market." But this truth could not leak out, and the "feel-good reports" kept issuing from the U.S. embassy. Companies stay in—when they stay in—not because they are making money, but for complicated reasons of their own.

No one wanting to believe the best of modern China should read this book. The New China is a place where you have to burn books, lest you be caught with them. It is a place where innocents vanish in the middle of the night (or day). Gutmann spills the beans spellbindingly, and even a chapter on sex—a key ingredient of the American way in Beijing—is as revealing as it is salacious.

■ Peter Hays Gries is no Ethan Gutmann. An assistant professor of political science at the University of Colorado, Boulder, he does not like criticism of China. Virtually any criticism is "bashing." And this bashing serves only to "demonize" China—which is "dangerous," because China reacts badly to criticism. "Dangerous" is one of Gries's favorite words; he would regard Gutmann's book as very dangerous indeed.

His own book, ***China's New Nationalism: Pride, Politics, and Diplomacy*** (University of California, 215 pp., $24.95), has much useful information in it. Chinese nationalism is a subject of momentous importance. But Gries is one of those specialists in moral equivalence, decrying "hardliners on both sides." Ah, yes, the hardliners-on-both-sides dodge. We know this trick from the Cold War, and from the ongoing Arab–Israeli conflict. In fact, Gries takes up that conflict, noting that "Palestinians depict Zionism as 'racism,' while Israelis label the Palestinian Liberation Organization (PLO) as 'terrorist.'" Imagine that—the PLO as terrorist!

The patient reader will mine this thickly written and often silly book for worthwhile ore. Here is a nugget: When the computer program known as "Deep Blue" defeated chess champion Garry Kasparov, the cover of *Beijing Youth Weekly* blared, "Chinese Defeat Kasparov." Why? Because two members—two—of the six-man IBM team that designed Deep Blue happened to be Chinese-Americans—not even Chinese, mind you, but Chinese-Americans. That is interesting.

But in Gries's book, questions arise and go unanswered. Many Chinese seem to spend their lives nursing historical grievances: over the opium wars, over the Japanese invasion, and over other horrors inflicted by foreigners. Do these people ever turn their thoughts to the millions whom the Communist party has murdered, tortured, and starved? Prof. Bernard Lewis has pointed out that Arabs vent their fury at the West—particularly the American government—because they are denied the right to criticize their own (invariably corrupt and undemocratic, and often pernicious) governments. Might this same point apply to China? Three Chinese died in the Belgrade embassy bombing, and one Chinese died when a U.S. spy plane collided with a Chinese jet fighter. These four deaths loom enormously large in China's New Nationalism. According to *The Black Book of Communism*, 65 million were killed under Mao's rule.

■ And we have, commemorating that rule, a book of stunning power, ***Gang of One: Memoirs of a Red Guard***, by Fan Shen (University of Nebraska, 294 pp., $24.95). Shen now teaches English at Rochester Community and Technical College in Minnesota. But long ago he was a preteen Red Guard in Beijing, the son of "revolutionary" parents. It was "agonizing" for him to write this book, in part because the book had the potential to make those parents "regret that they had ever given birth to me." Shen turned his back on his revolutionary heritage; in doing so, he performed a service for us all.

As a boy, Shen had a "Red heart," gleefully shouting "Long Live the Red Terror!" and ransacking the homes of "bourgeois" (who would then meet the ghastliest fates). Slowly, however, he lost that Red heart, as his fundamental goodness poked through. He went from the Big Courtyard in Beijing, to a country village, to an aircraft factory, to college, and finally, with a miraculous passport, to the United States. Along the way, he had many close calls, and encounters with many fascinating people. This book is full of death, and worse, as mass sadism took hold of an entire country (the world's biggest). But it is also full of humanity, and, at times, funny as hell. (You should listen to "Comrade Thus," so named because of his propensity to use the word "thus.") There is even, shockingly, a love story toward the end of the book. It is as shocking and beautiful as that in *1984*.

Hypnotically rendered, *Gang of One* is a high literary achievement, documenting an even greater achievement, by which I mean the life of this awe-inspiring man, Fan Shen. **NR**

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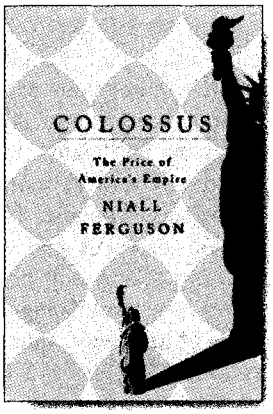


Colossus: The Price of America's Empire, by Niall Ferguson (Penguin, 384 pp., $25.95)

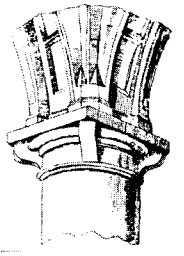
DAVID FRUM

WHAT are we going to do with Niall Ferguson? Ferguson is a brilliant young Scot now emerging as one of the English-speaking world's leading popular historians. Educated at Oxford, now transplanted to Harvard, he is also—incredibly enough—a thinker of generally conservative instincts. As a writer, he is engaging, often witty, erudite, ingenious—and yet again and again, his judgment is distorted by an almost frivolous perversity.

Ferguson's virtues are all on display in his most recent book. So, alas, is his fatal vice. Here is his case: America was and is an imperial power. And this, Ferguson argues, could be a good thing—if America would only exercise its imperial power in the right way. The trouble is, he continues, that Americans refuse to recognize the truth: They deny their country is an empire, they refuse to act like an empire, and therefore in the long run they will cease to be an empire: "For all its colossal economic, military, and cultural power, the United States still looks unlikely to be an *effective* liberal empire without some profound changes to its economic structure, its social makeup, and its political culture."

There's a political cliché that if something waddles like a duck and quacks like a duck, then it's a duck. Ferguson takes just the opposite view: He repeatedly complains that his particular fowl neither waddles nor quacks—and yet he insists it is nevertheless a duck. Or rather he keeps insisting until the very end of the book, when he himself is finally forced to admit that the language of empire "is irrevocably the language of a bygone age." So why does he use it? Very largely, it seems, as a stunt to win attention for his larger argument about America's role in the world. Unfortunately for Ferguson (and for his readers too), his stunt has succeeded all too well: His debate over American empire has garnered so much attention that the other—considerably more valuable—parts of his book are starved of attention in comparison.

Maybe an analogy will help make clear where the true value of Ferguson's book lies. In the 19th century, most economists believed that a free-market economy was inherently stable and self-correcting. If the economy got into trouble, the best thing to do was to leave it alone and let it find its own way back to equilibrium. The Great Depression discredited this optimistic view—and created an audience for John Maynard Keynes's observation that economies can sometimes dig themselves into holes they cannot dig themselves out of. In such cases, Keynes argued, a jolt of government intervention can spare people a lot of unnecessary misery. Keynes was of course right—but he overlooked something. Yes, markets fail; but so also does the government that Keynesians count on to save us from the market. Much of the best of modern economics is the study of government failure. We study government failure not because we think government is never necessary, but because we want to ensure that when governments do intervene, they intervene intelligently and effectively and with the fewest possible negative side effects.



Nineteenth-century people likewise thought of the international system as self-correcting: The balance of power was the foreign-policy equivalent of the free market. Two world wars cured Europeans of that mistake. Just as competitive economies can tumble into prolonged depressions, so a world of competing nation-states can tumble into murderous carnage. In the 1940s and 1950s, the survivors of World War II built a new international system that limited the sovereignty of nation-states in much the same way that the Keynesian economy limited the freedom of individual corporations. The U.N., NATO, the European Union, the General Agreement on Tariffs and Trade, the International Monetary Fund, and on and on the list went: These were the international equivalents of the Securities and Exchange Commission—with the United States government serving as the ultimate regulator of the whole system.

Like the neoclassical economists, Ferguson has set himself the task of exposing the flaws and weaknesses of the regulator of the international system—and, like them, not because he denies that the system needs a regulator, but precisely because he agrees that it does, and wants that regulator to work better.

Ferguson's list of flaws and weaknesses boils down to this great overriding challenge: Because the U.S. population is aging, and the costs of Social Security and Medicare are therefore rising, there is a very real risk that the United States may soon lack the money and manpower to act effectively in international affairs. Ferguson is also concerned that the short-termism of the American electoral cycle makes it difficult, even impossible, for American political leaders to give international affairs the attention they deserve. These are important warnings, especially the first—and they do not become less important because Ferguson has no solutions to propose.

What Ferguson does do, and this is achievement enough, is remind us all of how indispensable the United States is to all the peoples of the world. In the book's most entertaining chapter, he wittily demolishes any hope that the European Union will emerge as any kind of effective competitor to the United States. And he leaves the reader with this final summons to action: If the costs of leaving Social Security and Medicare unreformed threaten to cripple America's ability to guarantee the peace and freedom of the world, then they are going to have to be reformed, aren't they? NR

Mr. Frum, a contributing editor to NATIONAL REVIEW, is the Reader's Digest fellow at the American Enterprise Institute.

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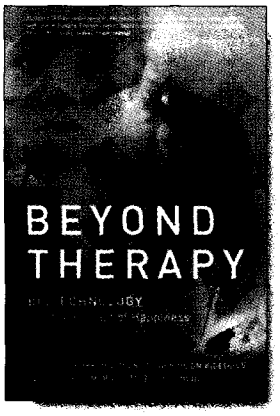
Staying Human



Beyond Therapy: Biotechnology and the Pursuit of Happiness: A Report of the President's Council on Bioethics
(Regan, 352 pp., $14.95)

WESLEY J. SMITH

THE media—goaded on by the science establishment—have been in full cry against Leon Kass, the chairman of the President's Council on Bioethics, accusing him of politicizing the panel and "stacking the deck" with conservatives to reach predetermined results.

For example, when University of California-San Francisco scientist Elizabeth Blackburn was not reappointed for another term on the Council, she complained to anyone who would listen that her absence from the panel undermined science—and her charges were reported widely. She was given space to grouse in *The New England Journal of Medicine*, and bioethicists who support federal funding of embryonic-stem-cell research and therapeutic cloning circulated a public protest petition—generating even more anti-Kass news coverage. On *Slate*, journalist Tim Noah called Kass a "silly ass."

Mr. Smith is a senior fellow at the Discovery Institute and a special consultant to the Center for Bioethics and Culture. His next book will be *Consumer's Guide to a Brave New World.*

But all these charges of the panel's politicization turn reality on its head: Ever since President Bush created the Council and appointed Kass to lead it, it has been the supporters of Big Biotech who have been waging political war, striving to subvert and discredit the Council. Never mind that the supposedly stacked-deck Council had divided sharply over whether to permit human cloning for biomedical research, and fully and fairly aired the pro-cloning perspectives, including Blackburn's; and never mind that President Bill Clinton's National Bioethics Advisory Commission *unanimously* recommended that research cloning be allowed to proceed virtually unfettered, without a peep being uttered about stacked decks.

All this high dudgeon about "politicization" has a purpose: to diminish Kass's influence as a public intellectual—because he promotes human exceptionalism and a belief in inherent human dignity—and thus to diminish the influence of the Council's work. This is a truly unfortunate agenda, because whether one agrees or disagrees with the Council's views, it has provided outstanding intellectual leadership in identifying the moral issues we must ponder as we enter the biotech era. One of its most recent contributions, *Beyond Therapy: Biotechnology and the Pursuit of Happiness*, demonstrates the moral depth and intellectual rigor of the Council's deliberations.

Leon Kass's Council has provided outstanding intellectual leadership.

This report explores the moral issues surrounding biotechnology's drive to improve human biology and performance. This quest, the Council says, reflects "humankind's deep dissatisfaction with natural limits and its ardent desire to overcome them . . . What's at issue is not the crude old power to kill the creature made in God's image but the attractive science-based power to remake ourselves after images of our own devising." These issues are as deep as the Pacific, and not easily grappled with in the facile sound-bite advocacy into which our national discourse has devolved. But this does not mean they are not approachable or understandable. *Beyond Therapy* has been written in such an engaging manner that it invites any reader to join in the pondering.

The report's discussion is rich and well woven, as it deals with difficult issues of definition. What is the difference, for example, between therapeutic medical treatment and biological enhancement? Or between giving children intense early training, and "improving" them (a deplorable term) through medical and biological modifications of their talents or capacities? I found the book's chapter on "Superior Performance" the most interesting and novel. "At the core of the notion of 'superior performance,'" the Council writes evocatively, "is the idea of excellent human activity: excellent, not inferior; human, not inhuman or non human; active not passive, at-work and not idling." This desire is "central to our humanity."

The Council warns, however, that therapies and medications intended to treat disease and relieve suffering could quickly be adapted for uses far beyond those originally intended; a line may exist, which, once crossed, could result in non-therapeutic improvements at the very severe "price of our integrity and dignity." Anyone with a television set knows that this process has already begun. Just look at the evolution of the ads for the various anti-impotence medications now pitched routinely on TV. What began as a way for, say, prostate-cancer patients to overcome the sexual side effects of treatment have morphed into promotions clearly aimed at middle-aged men who are not impotent but whose libidos are, quite naturally, not what they were at age 18. Indeed, in one recent ad, a beautiful woman looks provocatively into the camera and says that her man takes the product for the "quality" of the arousal it produces. Clearly, these ads are becoming less about giving hope to the impotent and more about making men believe they are missing something vital in their lives unless they pay for chemicals that will enable them to perform sexually with the zest and frequency of randy teenagers.

What does all of this say about men and women, and about the doctors who would prescribe impotence medication for a man who isn't impotent? And what would be the result of making these and other types of "enhancements" through

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bioengineering or the wonders of chemistry, rather than through natural means such as athletic training or improved diet? The Council predicts that the law of diminishing returns would set in. Our sense of accomplishment would be undermined, in the face of our increasingly artificially induced human excellence. Think about it: Fred Astaire is considered a great artist precisely because his dance prowess resulted from rigorously applied perfectionism, discipline, and dedication to developing his natural talent. Would we honor Astaire if his grace and agility resulted merely from genetic engineering? Wouldn't it be like cheating at solitaire?

The same problems arise with improving athletic performance through artificial means. The Council explains:

> We still run because running, while not as fast as moving on wheels, retains a dignity unique to itself and unique to those who engage in this activity. The runner on steroids or with genetically enhanced muscles is still, of course, a human being who runs. But the doer of the deed, is, arguably, less obviously himself and less obviously human than his unaltered counterpart. He may be faster but he may also be on the way to becoming more "cheetah" than man, or more like the horses we breed for the racetrack than a self-willing, self-directing human agent. He does the deed (running), and his resulting time may be measurably superior. But he is also (or increasingly) the passive recipient of outside agents that are at least partly responsible for his achievements.

This is high-quality thinking of a kind rarely seen in governmental commissions, and it isn't found only in *Beyond Therapy*. All of the published work by the Council I have read (I haven't yet received their latest, on regulating reproductive technologies) is rife with provocative argument and depth of thought. This will be the panel's true legacy: exploring the moral dilemmas raised by the most potentially life-altering technologies ever envisioned by mankind. It will long outlast the demagogic attacks made against it by those who misperceive its moral questioning as enmity toward science. **NR**

Immaculate Preemption

Raid on the Sun: Inside Israel's Secret Campaign that Denied Saddam the Bomb, by Rodger W. Claire (Broadway, 288 pp., $24.95)

DAVID PRYCE-JONES

In the course of the last 40 years, France has done more damage to the Middle East than any other country, with the possible exception of the Soviet Union. Successive French governments have had no scruples of any kind in their effort to extract political clout and petrodollars from the Arabs.

French policy toward Saddam Hussein is a perfect case in point. The moment he began his ascent to absolute power in Iraq in the 1970s, the ingratiation and the profiteering began. Saddam wanted a nuclear bomb and made no secret of it. In 1975, he visited Paris. Jacques Chirac, then French prime minister, was a man after his own heart, sharing the view that power and money have nothing to do with moral considerations. Chirac happily agreed to build Saddam a nuclear reactor at al-Tuwaitha, not far from Baghdad. In view of Iraq's huge oil deposits it was absurd for the French to pretend that the reactor was for civil purposes. In any case, they made sure to provide the materials for a bomb. It was of no concern that they were certain to be disturbing the peace. After all, it was only the lives of Arabs, Iranians, and Israelis that they were putting at risk.

The destruction of the Iraqi reactor makes for a gripping story.

Too impatient to wait for this project to materialize, Saddam in 1980 invaded Iran. Aware of the potential nuclear danger, the Iranians soon staged an unsuccessful air raid on the reactor. For Israel, the writing was on the wall. A choice loomed: either to wait and see if Saddam intended to realize his threats, or to follow the Iranian example and preempt the danger by taking out the reactor. The issue was one of national survival.

Menachem Begin had been elected Israeli prime minister in 1977. By temperament, he preferred to act rather than let fate take its course. His cabinet included experienced soldiers and politicians such as Ezer Weizman, Yigal Yadin, and Ariel Sharon, and Begin rightly felt that he had to have a unanimous vote of consent from them. For a long time there was dissent; Weizman even resigned. But once the Iraqi reactor was producing fissile material, its destruction would lead to loss of life on an unthinkable scale; intelligence sources began to report that the window of opportunity was closing fast. At the last moment, on June 7, 1981, a squadron of Israeli F-16s took out the reactor. The circles of international bureaucrats and diplomats shook with indignation, most of it humbug. President Reagan, as usual, said what the man in the street was thinking: "But what a terrific piece of bombing!" The Israelis in reality were only escaping from the predicament in which France had landed them.

Rodger W. Claire is a former magazine editor, he knows that the destruction of this reactor makes for a gripping story, and he tells it in a racy magazine style. He has interviewed at length the eight pilots on the mission, as well as their commanders, notably David Ivry and Raphael Eitan, who have both gone on to careers at the highest levels. As might be expected, the pilots are no good either at introspection or at boasting; they did the job, and that's that. The details Claire provides about the long period of training and preparation are nonetheless full of human interest. Kept in the dark, the pilots' wives were under great strain. A very senior

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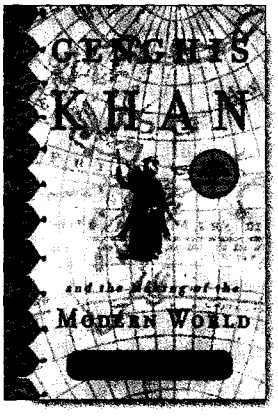
and celebrated pilot pulled rank in order to be chosen for the squadron, but his were the only missiles that missed the reactor.

This feat of great daring and virtually impeccable execution all the same depended to an uncomfortable degree on chance. None of the aircraft previously available to Israel had the range to fly to Iraq and back. The requisite F-16s were acquired only when the ayatollahs seized power in 1979 and heedlessly cancelled the order put in for them by the dispossessed shah. This Iranian decision in a sense determined events. Even then, modifications to the aircrafts' fuel loads and armaments were vital, and might still have been impossible to engineer. Nobody knew how to bomb a nuclear reactor, and soundings had to be taken in the United States about the feasibility of it. So testing was the actual sortie that all the aircraft had mechanical failures on the following day. Aviation buffs will appreciate technicalities about inertial navigation systems, initial points, G-suit bladders, KH-11 satellite shots, pop-ups and pippers and radar bloom and much else of the kind.

Begin and his ministers hoped all the time that clandestine secret-service methods would prevent the resort to force. To believe Claire, this was one of Mossad's finest operations. Agents were apparently able to report accurately developments on the site at al-Tuwaitha. Other agents delayed the project by sabotaging finished cores about to be shipped out of France to Iraq. One Iraqi scientist was suborned without his knowledge, and another was found in Paris with his throat slit after a night with a prostitute.

The moral is that in a dangerous world Israel does whatever it has to do in order to ensure its safety, and if that offends any power great or small, too bad: It is preferable to be alive than dead. The watching world came to accept that Begin had taken a far-sighted, courageous, and justified decision, which kept the peace and even enabled the United States in the end to check Saddam and his projects of destruction. Now the ayatollahs of Iran seem to be preparing to brandish a nuclear weapon in the name of God. One way or another, Claire may soon have another equally dramatic book to write. **NR**

A Kinder, Gentler Khan



Genghis Khan and the Making of the Modern World, by Jack Weatherford (Crown, 352 pp., $25)

ALEXANDER ROSE

For years the more robust souls here at National Review have prided themselves on being to the right of Genghis Khan. Now, however, comes Jack Weatherford, a professor of anthropology at Macalester College, to make the case for a kinder, gentler Genghis in his revisionist history of the fast rise and quicker fall of the Mongol Empire.

Blessed with an eye for the main chance, and a capacity for killing friends and family at propitious moments, the boy born in 1162 as Temujin dominated his tribe and, by 1204, captained it to triumph over its rivals. As they exerted their majesty over an expanding realm, this shaggy steppe-chieftain and his descendants became the emperors of kings.

Genghis sportingly offered enemies a choice: surrender or die. If they decided to fight, the khan was as good as his word, and they died—all of them, men, women, and children—but those who elected to pay fealty to the conqueror lived in peace under Mongol protection. The price of this privilege for the defeated was the mass-sacrifice of their native aristocracy and the export of their treasure to his coffers.

So far, Genghis Khan may not sound like a compassionate conservative, but Weatherford argues that his subject was a great deal more tolerant and far-sighted than his barbaric reputation suggests. Suborned peoples, of all creeds and cultures, were permitted to conduct their affairs autonomously—so long as they recognized his paramountcy. He was the first of the great free traders, a meritocrat, and, by the lights of his time, a nicely enlightened despot. You could do worse than being ruled by Genghis Khan, and many did.

After his death in 1227, his heirs bickered, yet still the empire grew, an achievement owed to the enterprising generals Genghis had nurtured, who continued their mentor's policy of attacking the world, as well as to the swift, and expertly regimented, Mongol cavalry. Much of China fell under the Mongols' sway, and, far to the west, the sultans, the Caesars, and the throned dynasts of Europe trembled at the approach of these strange and fierce Asiatics.

But within a couple of generations, this rags-to-riches tale turned into a cliché, with a cliché's inevitable ending: The descendants of the great khan, swaggering with booty and rather too fond of their mighty pleasure-domes (which they did decree), lost their will to power. There were the usual civil wars, several failed campaigns, a spate of poisonings, and a few palace coups. Ominously, no longer were the Mongols feared. And then, in the mid-1300s, the Black Death visited itself upon the Mongols as on others. Trade ceased, as did the flow of tribute. The Mongol periphery lost contact with the Mongol core, and soon afterward the Mongol Empire just up and slipped away.

The Mongol overlords, who were often

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outnumbered by their subjects by a thousand to one, were either absorbed or expelled. The Russians and the Arabs threw off the Mongol yoke, while the Turks, Chinese, Koreans, Persians, and Indians fused their cultures with that of their satraps to create hybrids (the most famous of which was India's Mughal dynasty, which lasted until the British Raj). Here and there, Mongol princes clung to power in third-rate fiefdoms, but they were pathetic creatures, living mostly on sufferance. The last ruling descendant of Genghis, Alim Khan, emir of Bukhara, was deposed in 1920 by the Soviets, heralds of a new world empire.

Despite its titanic expanse, its wealth, and its impressive accomplishments, this empire created nothing and left little of use (apart from a few lexicographical relics—*horde*, *hurray*, *mogul*—and a tongue-twister that I recall went something like this: "How many boards could the Mongols hoard if the Mongol hordes got bored?"). They left no monuments or distinctive architecture, no formal religion, no scientific breakthroughs, no enduring economic, philosophical, or legal system, no great art, and hardly any literature.

The Mongols were the thieving magpies, not the busy beavers, of the Middle Ages: Instead of diligently building and developing things, whenever they saw something new and shiny they needed or liked, they took it. And, for some time, they needed a lot, for, owing to their nomadism, the Mongols were ignorant of such basics as how to bake bread or make pottery. Later, Muslim mathematicians, Chinese anatomists, German miners, Persian merchants, Italian silversmiths, English translators, Indian astronomers, all trekked—sometimes involuntarily—to the court of the khan and performed their miracles. But despite the cosmopolitanism and sophistication of their empire of illusion, one can't help feeling that the Mongols remained, at heart, a hunter-herder steppe people who lucked out and made it big, yet were happiest when down home on the range: They were the Beverly Hillbillies of history's *conquistadores*.

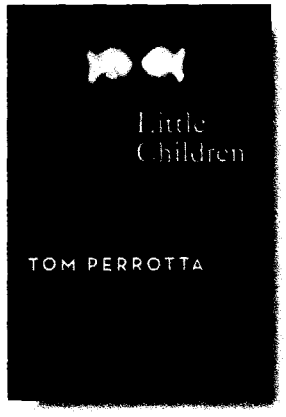
Weatherford devoted years to this very fine book, and it stands as a necessary corrective to the Enlightenment-invented view of Genghis Khan as an unbridled savage. The author followed the trail of the Mongols through "Russia, China, Mongolia, Uzbekistan, Kazakhstan, Tajikistan, Kyrgyzstan, and Turkmenistan," and then, for good measure, undertook the "sea route of Marco Polo from South China to Vietnam, through the Strait of Malacca to India, the Arab states of the Persian Gulf, and on to Venice." There is excellent editing throughout—only a single typo, the irresistible "Genghis Kahn"—and just a couple of stylistic infelicities (I briefly sighted the monstrous phrase "snuck in") amid its many splendid passages.

Two other small cavils. First, Weatherford's enthusiastic determination to prove that the Mongols "made" the modern world can sometimes lead him astray. It is not true, to take just one example, that German High Command based its blitzkrieg doctrine on a study of Mongol cavalry operations circa 1250; the Panzer generals in fact took their cue from such distinctly un-Mongol-like figures as British military theorists J. F. C. Fuller and Basil Liddell Hart.

Then there is Weatherford's over-reliance on a single source, *The Secret History of the Mongols*, an enigmatic 13th-century biography of Genghis Khan. As any medievalist will tell you, never *ever* unquestioningly cite military estimates given by contemporary chroniclers, who are invariably fabulists in this regard. Nevertheless, Weatherford repeatedly quotes impossible numbers without raising an eyebrow. Were there really "hundreds of thousands" of Mongol cavalrymen at Khubilai Khan's command? How likely is it that "25,000" Europeans were killed at one clash alone in 1241? Consider that at the near-contemporaneous battle of Evesham in England in 1265, which was regarded by medieval observers as a bloodbath of unbelievable savagery, some 30 barons were massacred, along with perhaps another several hundred foot soldiers. Or that Field Marshal Haig lost 20,000 troops dead on the first day of the Somme in 1916, but that stupendous figure out of 600,000 men.

But these are mere quibbles. Thanks to Weatherford's excavation of the great khan and his era, we mighty can again look on Genghis's works, and despair! **NR**

Oh, Grow Up!



Little Children, by Tom Perrotta
(St. Martin's, 368 pp., $24.95)

DAVID KLINGHOFFER

THERE are certain kinds of stories, told in novels or movies, that for all their apparent ordinariness still yield fascination, even profundity, not to mention first-class entertainment. One might, for example, though this is not the place for it, delve into what makes the high-school movie a genre beloved not only by teenagers but by adults decades removed from their own high-school days. Why is it that, by comparison, movies about college rarely compel our attention?

So it is with the suburbs: with the suburban film and the suburban novel, of which Tom Perrotta has written an outstanding example. What could be more mundane than a grid of streets dotted with similar-looking trees and similar-looking houses with similar-looking residents driving around in positively identical Volvos?

Although nothing much happens in Perrotta's *Little Children*, which unfolds in a fictional Boston-area suburb called Bellington, this is a novel whose last page I was sad to reach. A brilliant comic, a deeply sympathetic and dead-on-accurate observer of human vulnerabilities,

Mr. Klinghoffer is the author most recently of *The Discovery of God: Abraham and the Birth of Monotheism.*

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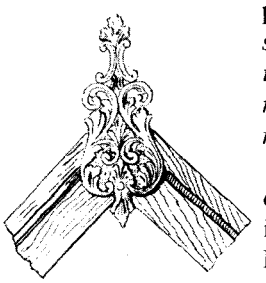
Perrotta is also the author of a novel that was turned into a 1999 high-school movie, one of the best in that lofty genre, *Election*.

The concluding paragraph of *Little Children* explains what the whole rest of the book is about. The story follows the arc of an adulterous relationship between a couple of suburban parents of small children who meet on the playing fields of eatin': a Bellington playground where Sarah, our female protagonist, is trying to pacify her bratty three-year-old daughter Lucy with those staples of suburban-at-home-mom-on-the-run nutrition, Ziploc bags full of Cheerios and Goldfish crackers. (Two Goldfish crackers are portrayed, as if about to kiss, on the book's front cover.) Todd, a house-husband whose wife is a documentary filmmaker, is spied by Sarah at the playground with his boy Aaron, and Sarah's girlfriends dare her to get his phone number. She does this, and ends up in a passionate kiss as well right there in front of the other moms. This leads to a summer affair.

In the book's final paragraph, Sarah looks back, having returned to the scene of her and Todd's first meeting, the playground: "She was here because she'd kissed a man on this very spot, and tasted happiness for the first time in her adult life. She was here because he said he'd run away with her, and she believed him—believed . . . that she was something special, one of the lucky ones, a character in a love story with a happy ending."



Whether the ending really is happy you'll have find out for yourself. But the point here is compressed into that last phrase. Sarah gets involved with Todd—a good-looking dummy who's been trying unsuccessfully for years to pass the Massachusetts bar and become a lawyer—precisely because through their affair she enters into, in her own mind, *a story*. For Perrotta, suburban life is premised on a certain kind of story you tell yourself. In a big city, you are confronted with undisguised reality—the aerosolized particulate haze of car exhaust, the pummeling delivered upon your body in a crowded bus or subway, the vaguely ridiculous menace of urban youths, the misshapen desperation of street people. In the suburbs, even though you're only minutes from the city, it's like you live in the woods, a lovely and minutely planned kind of rural-urban countryside. The story you tell yourself is one of being cast back into a pastoral 1950s alternative reality of horses, grass, woods, innocence. When I transplanted one summer from hot, grim New York to a dreamily green Seattle suburb, I noted, among other things, the way the church parking lots seemed to overfill every Sunday. Innocence at last!

Or so it seems. Why is it, though, that suburbs consistently sprout news stories of the most twisted kind? The serial killers, the child molesters—why are they always suburb-dwellers? It's not the urban white kids who go out of their way to dress like urban thugs, it's the suburban rats. Every Sunday morning, the parking lot of a town park near my house is littered with condoms. It could be the suburban unreality itself that generates both perversity and self-delusion.

Perrotta's characters are all telling themselves stories, about themselves. Todd, once upon a time a college football star, tries to relive his ball-playing wonder years by joining a midnight-football league, imagining himself back to the time years before he became little Aaron's mother. Sarah, before she meets Todd, imagines herself to be an anthropologist: "*I'm a researcher studying the behavior of boring suburban women. I am not a boring suburban woman myself.*"

There's no harm in those daydreams. But later she'll imagine herself as an Emma Bovary, one whose "heroism" puts her in a superior league of adulteresses. "Madame Bovary's problem wasn't that she committed adultery," she explains. "It was that she committed adultery with losers. She never found a partner worthy of her heroic passion." Sarah entertains the fantasy that, in Todd, she has found such a partner.

What's wonderful about Perrotta's book is that however contemptible his characters may at first sound, he loves them and elicits our care and concern as well. Maybe this is how God sees us.

The worst person in the book is Ronnie McGorvey, a pervert and a pederast, possibly a murderer (the question is left open till the last pages). But even he, or anyway his mother, in her desperate love for him, can break our heart. Before she dies, Mrs. McGorvey leaves her son a handwritten note, scrawled out in her last moments: "*Please please be a good boy.*" To which he replies, in a note of his own after she's dead, "I'M SORRY, MOMMY, I DON'T THINK I CAN."

The truth is that, to one degree or another, like the men and women in *Little Children*, we are all our mothers' children, play-acting at being adults, many of us not doing a very good job of it. Perrotta's title says it all. There are little children, like Lucy and Aaron, and big children, like Sarah and Todd. Will the pair of adulterers grow up before—in their irresponsibility, their daydreaming—they can succeed in destroying both of their families?

This is not an anti-suburb novel. It's simply about a kind of human foible, common in Boston no less than in Bellington, that seems to find its most apt, its most poetic, expression in suburban existence. Storytelling, fooling yourself, may be done in the city or country, but only the suburb was specially designed for it. The insight is conveyed succinctly in this beautiful and wise little book. **NR**

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■ CITY DESK ■

Behind the Façades

RICHARD BROOKHISER

BUSY man does a million things, and cities collect many of them. Yet most of our public activities fall into a few large categories.

One might be called Putting in Rivets. By the sweat of your brow shall you eat your bread, God told Adam, and most people the world over sweat indeed. But for many Americans the curse has been modified. William Bendix in *The Life of Riley* went to a factory every workday where he put rivets in the wings of airplanes. There was no suggestion that this job fulfilled him in the way that Marx imagined labor might fulfill men under socialism. But neither was it drudgery. He put in his rivets, chatted with his friend and co-worker, and took home his earnings. This is the world of work—dull, necessary, not unpleasant.

Other public activities fall into the category of Mysterious Purposes. We see others doing many things we not only do not do, but cannot comprehend. Nanotechnology, hip-hop, banking (what is interest—really?)—some people know it, not us. They may not all know what we do, of course. Lacrimae Rerum are things we all, alas, know well. The phrase (literally, "the tears of things") is from the *Aeneid*, when the wandering Aeneas sees, on the walls of a temple in Carthage, where he has just arrived, images of the fall of Troy: He suffered through it, the Carthaginians know of his suffering: the universal language. Activities devoted to pain and death are obvious candidates for Lacrimae Rerum, though cleaning up after sin and boredom (the latter often begetting the former) claim their share.

Things We Like are the happy pleasures. Things We Don't Like are the would-be happy pleasures that fail to please. A lot of public space, finally, is taken up with the citadels of private life: houses or apartments. Let us call the activities that go on there Sleep, after the most private activity of all, though sleep bleeds, metaphorically, into other activities, such as prayer (now I lay me down to) or sex (sleeping around). Why are the things that occur in our homes public activities? Because, unless we live on the frontier, or in gated communities, the public sees at least the shells. The El Dorado is as visible as a row house in Queens.

Let's take one city street and slice it. Thanks to Manhattan's grid, most of its streets north of 14th St. are miles long, but Irving Place is only six blocks. We'll walk uptown, crossing back and forth.

Consolidated Edison. Putting in Rivets, big time. This is a massive limestone office building, in the style of a Babylonian temple, filled with worker bees who decide our electricity rates. Because it is a public utility, national-greatness conservatives would love to put one on every block. But that would be tiring aesthetically, as well as politically. Would Athens want a hundred Parthenons?

Things We Don't Like: a shop of cheap gifts. I imagine they're ideal for the homebound worker who has only just remembered a birthday or an anniversary, yet getting such a thing might be worse than getting nothing at all. Things We Don't Like: a snack place that serves a nearby stretch of little theaters. Snacked there once, never again.

Sleep: a Lutheran guest-house for sailors. Mysterious Purposes: a meeting place of Rosicrucians. I don't get it, though they knew I wouldn't. Putting in Rivets: a shoe-repair store, displaying a big green neon sole in its window. Twenty years ago it was owned by a Greek; now the owner is Hispanic. Their attentions repair the damage of pavements. As often in cities, specialized items and functions counteract each other. Mysterious Purposes: a seller of used surgical supplies. I understand the business in theory, but no one seems to patronize it. Mysterious Purposes: a concert hall. Many kids patronize this, winding around the block in patient, studded masses. What do I know? The last song I heard was "Jumpin' Jack Flash."

Things We Don't Like: a Chinese restaurant, once one of the very best in town. I almost ate my first Szechuan pepper there, until my wife's shriek saved me. Got new owners, ate there once, never again. Lacrimae Rerum: a welfare office, always haloed with people, and the merchants who ply them with fast food and toys. Putting in Rivets/Lacrimae Rerum: a high school. Every June the kids, usually so raucous, stand on the sidewalks in their robes and mortarboards. I hope they have learned. Mysterious Purposes: a sushi place. Why? Mysterious Purposes: a Spanish restaurant. Why again?

Things We Like: a pair of small old brick buildings converted into a boutique hotel. We stayed once in the Madame Olenska Suite, which was cleverly named, since she is described in *The Age of Innocence* as clinging to gentility. The hotel, before and after, brackets her condition. Things We Like: an Italian restaurant. Old-fashioned spaghetti and meatballs, by now as American as apple pie. Sleep: two apartment buildings, one pre-World War II, one post-, both now wearing the patina of the past.

Mysterious Purposes: an antique store. Someone thinks someone would like a life-sized carved wooden bear. Things We Like—from afar: a bar, frequented by Tammany and O. Henry. Deafening. I'm glad it's there, but you go. Things We Like: the snack place I go to. Things We Like: a Japanese restaurant that has discovered fire.

Sleep: a row house with a gated courtyard. Sleep: an apartment building with glaring gargoyles. Sleep: a row house wearing a cloak of ivy. Mysterious Purposes: a mansion, last inhabited by Ben Sonnenberg, a raffish publicist, which has been vacant for 25 years. I realize I have overlooked a category—Remembrance of Lives Past: a plaque marking the home of Elihu Root; a bust of Washington Irving, for whom this slice of life is named.

Irving Place ends in a park, which represents another extra category—Nature, which sustains and ignores us, and which has now, by mid-May, come to life again. **NR**

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on the right

WILLIAM F. BUCKLEY JR.

Dumb, Dumbest

NEW YORK, APRIL 27

In 1962 Michael Di Salle was running for governor of Ohio. It was a season in which U.S. officials were calling out an alarm against possible air attacks. Governor Rockefeller came close to writing into the New York State building code a requirement that new houses have bomb shelters, and he led the way by constructing a shelter in his own home. There was the problem of the huge expense of public bomb shelters. The Republican candidate in Ohio promised a $100 million program to provide these shelters if he was elected.

Democratic contender Di Salle, something of a humorist, announced his program for shelters which would cost the state a mere $5,000. He explained that he would construct two huge arrows at $2,500 each, visible high in the air. One, pointing northwest in neon lights, would be labeled DETROIT. The second, pointing west, would be labeled CHICAGO. Why would bombers pause over Cleveland?

That lesson in reductionist thought brings to mind the current impasse. It is vividly introduced by a headline in the *New York Times*: "MILITANTS IN EUROPE OPENLY CALL / FOR JIHAD AND THE RULE OF ISLAM." The dispatch speaks of young Arab militants, beginning with one group in Luton, England: "They say they would like to see . . . Blair dead or deposed and an Islamic flag hanging outside No. 10 Downing Street."

These are not playboys of the kind who merely talk about terrorism. One knot of Muslim extremists, last March, was intercepted with 1,200 pounds of ammonium nitrate. Five of these Pakistani-Britons have been charged with trying to build a terrorist bomb.

The story quotes British authorities who say that laws to protect civil liberties have the effect of limiting what they can do to interfere with seditious speech. The British are left with the weapon of deportation. "Though the British home secretary . . . has sought to strip Abu Hamza of his British citizenship and deport him, the legal battle has dragged on for years while Abu Hamza keeps calling down the wrath of God."

Over here, you're not supposed to single people out for scrutiny on the basis of ethnic background. Ann Coulter, in her book *Treason*, illustrated the point. "In early December 2001, *60 Minutes* host Steve Kroft interviewed [Transportation secretary Norman] Mineta about his approach to securing the airlines from terrorist attack. Kroft observed that of 22 men currently on the FBI's most-wanted list, 'all but one of them has complexion listed as olive. They all have dark hair and brown eyes. And more than half of them have the name Mohammed.' Thus, he asked Mineta if airport security should give more scrutiny to someone named Mohammed. . . . The secretary of transportation said, 'No.'"

Such edging out of sensible action shows its face again in the problem the British have in distinguishing freedom of religion from seditious recruitment. The Brits are hardly alone: We have been kicking the case of Zacarias Moussaoui up and down the judicial corridors for more than two years. Prosecutors think he was the 20th man of the team that executed 9/11.

The languor of the law that protects minorities can be beautiful. It can also be plain dumb, as when old ladies are forced to pull off their shoes at airport security, when the arrows are out there clearly pointing at Detroit and Chicago.

Finding Honor in Abu Ghraib

NEW YORK, MAY 14

Several voices, trying to sway the public temper, if not exactly to overlook the grim events, at least to put them in an anesthetic perspective, are saying: "So's your old man." And there is no questioning the truth of it, which is that the people to whom President Bush has extended an apology are people who have spent very little time deploring the atrocities of the enemy we face. They are, then, hypocrites.

But what does that do for us, to label them as such? Nothing very much, because our concern is over the behavior of British and American troops, not the behavior of Baathists. Having apologized to the enemy and to the Arab community, what else is in order?

Sen. Tom Harkin of Iowa was quick to ask for the dismissal of Sec Def Donald Rumsfeld. Senator Harkin, just a few months ago, was counseling the election of Howard Dean as president of the United States, which tells us something of his own judgment. He is part of a little group of left toughies who are calling for Rumsfeld's dismissal—Nancy Pelosi and Charles Rangel and other solons. The trouble with leaving it to such folk to prescribe the norms of behavior in Abu Ghraib prison is, according to one commentator, "that one ends up blowing opportunities to effect true reforms."

But we do not need any reforms. Reforms are something we need in Guantánamo, where we have isolated a new species not previously known in the taxonomic order: the man who is not a prisoner of war, not a traitor, but an enemy combatant. If there is reason to be vexed by Rumsfeld, it is surely that he has not encouraged a table of organization that deals with that phenomenon other than simply by sticking him in a corner of Cuba without any avenue of hope or resolution.

But there are no reforms indicated in the treatment of prisoners in Abu Ghraib. What was done was against 1) regulations, 2) army convention, and 3) civilized tradition. What do the reformers want? Pre-induction courses for U.S. soldiers in which they are told not to strip and torture captives and photograph them naked?

The Democratic offensive has to limit itself to the failure to keep superiors informed. The lieutenant affiliated with the delinquent soldiers should have done more than he did, should have passed word about what happened on to battalion headquarters, which should have

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passed word to regiment, to corps, to army, to the Pentagon, to Rumsfeld—and to the president. Rumsfeld held back for several weeks telling Bush about it, and he has been reprimanded. We reasonably assume that Rumsfeld thought the delay would give army investigators time to trace the special rot that infected the perpetrators. Something a little different from just plain original sin.

Everybody suffers from that, but not everybody ties strings to genitalia and simulates electrocution.

The singularity of this offense—precisely its failure to be routine—puts it on a plane with the singularity of those Arabs in Fallujah who hacked Americans to pieces and hung them up on a bridge. We swore to avenge that crime and are bent on doing so. But we have distinguished between those Arabs, and others who do not engage in such conduct.

Our singling out the men—and women—at Abu Ghraib as different, as criminals to be distinguished from noncriminals, is all the perspective we need in handling this case. No reforms are needed. What is needed is the reenergizing of codes of conduct. After the My Lai massacre in 1968, we needed not fresh rules, but reaffirmation of existing rules, and the vindication of American honor came in the corporate feeling of revulsion over what was done.

The corporate sense of revulsion over what was done at Abu Ghraib is what regenerates Western honor now.

Is Everybody Brutal?

NEW YORK, MAY 21

THE television moments of the interrogation of the generals by the senators reminded one of the estoppel power of bureaucratic language. Doing a television program in Seoul some years ago I attempted to get from the commanding general the answer to a question I had thought pretty simple. After digging in for a dozen minutes I finally retreated, dazed by what had evolved into an innate incomprehensibility not only of the answer, but of the question.

And the interrogating senators had less time than I had in Seoul, limited as they were to ten minutes. Senator Byrd, who is as tenacious as an Internal Revenue examiner, attempted to find out just who had the authority to decree privations for recalcitrant prisoners. From the blur that ensued, one got the impression that the stimulants to cooperation were invoked ad hoc. Well, did that mean that the individual U.S. soldier applied this or that inducement based on generic okays? Without specific okays?

One gets the impression that the command structure was simply ineffective. This is a relief, in that we like to think that nobody actually authorized what we know took place. But there is the concomitant dismay—that a number of American soldiers were engaged in barbarous activity over a period of time, doing their best to persuade the world that it is unsafe to assume that Americans have an ingrown resistance to brutality.

A story published in the *Baltimore Sun* reveals that a few of the soldiers involved in Abu Ghraib attempted protests of sorts, but these went unheeded. Through all the past weeks' commotions there is the U.S. effort to speak to the Arab people. The idea is to communicate the mortification official America feels over what has happened, and to suggest that our critics spend some time evaluating our reaction to revealed torture, as compared with the resignation with which the Arab community greeted what went on routinely under the authority of the regime which we went to war to unseat.

Al Hurra, a satellite channel financed by the U.S., has broadcast records so graphic they would not be shown, under existing protocols, in America. Consider watching human hands being chopped off. That is one of the scenes displayed on Al Hurra. "We have even worse tapes but won't show them on television because they are so graphic."

Does sponsoring Al Hurra come off as a kind of national repentance?

A British doctor and analyst, Theodore Dalrymple, writes that such things as we have been reading about, and seeing, happen when "unbridled power over others" is exercised. Fugitive human inclinations build up and seek expression. One of these is sheer contempt for the prisoner class. Winston Churchill once said that a civilization could be judged by the way it treated its prisoners. Not so, says Dr. Dalrymple. "One can admire the civilization of Renaissance Florence without having many illusions as to how it treated its prisoners."

It may bring relief of some kind to acquire such historical perspective as permits us to say, at our Civilization 101 seminars, that dastardly things simply happen, and that it must be expected that they will continue to happen. Greater relief, on the other hand, is to be found in insisting that Americans are profoundly moved by what they have seen, that they refuse to be indifferent to such excesses, and that they are determined to express their resentment by prompt action.

Well, we tried Specialist Sivits. And we learned that he made his confession at the special court martial "fighting back tears." That was pretty rapid judicial action—all of it done in a single day. Members of the Arab press were there, and saw what there was to see—and heard the sentence pronounced. One year in jail, and canned from the military.

By U.S. standards, that is straightforward action. But it isn't easy to say whether the Arab man in the street will be impressed by the speedy judicial accounting, or amused by the apparent triviality of the sentence. It is here that we will need to be especially persuasive. We have to tell the Arab world that we don't believe the punishment is commensurate with the crime. How can a crime that stopped America dead when pictured on *60 Minutes* warrant only a year in the jug?

We weren't about to shoot Specialist Sivits, but in doing to him what we are entitled to do under the limitations of our code, we reinforce that code which he scorned. It's going to take a long time before Civilization 101 seminars in Baghdad succeed in explaining that when the U.S. gets really mad, we'll lock somebody up for a year.

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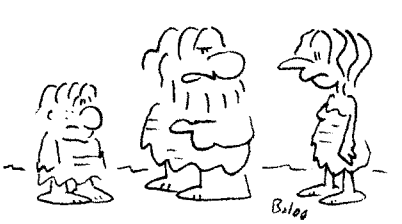

"I just invented the bed last week, and already he's wetting *it."*

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happy warrior

MARK STEYN

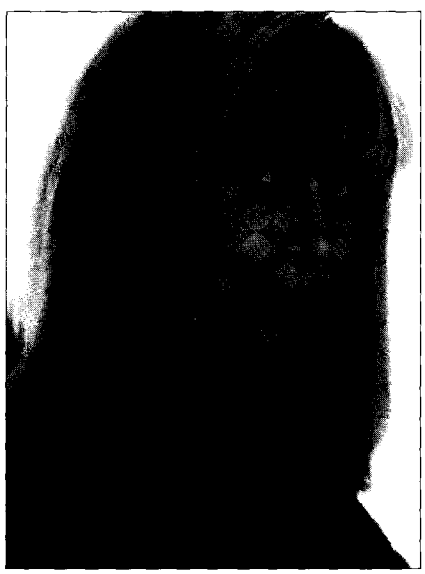
L'Air Amérique

REMEMBER Air America? The brilliant pre-publicity campaign marred only by an ill-advised decision to actually launch the product? The hype was coast to coast, but the station was only in a handful of markets, and a couple of those dumped the station after a bounced check, and most of the senior executives departed after a couple of weeks, which, according to whom you believe, was either part of the original business plan or extremely necessary because one of them was a "former Republican activist from Guam" and thus likely a double agent for the Vast Right-Wing Conspiracy. Many decades ago, Richard Mellon Scaife planted scores of deep sleepers in Guam on the off chance it might get statehood in the next century.

So I was amazed to discover the other week that Air America is still out there. I divide my time, as the book jackets like to say, between New Hampshire and Quebec, and motoring 'tween the two on the northern side of the border I've taken to listening to the Big 1070 WTWK Plattsburgh, serving not just the burgeoning twin-state market of remote northeastern New York and remote northwestern Vermont but also much of southern Quebec. I'm proud to be an Air America listener, even if I have to go to Canada to do it. You may not be able to listen to Al and Janeane in Chicago or Los Angeles, but once you leave the country they come booming in loud and clear, in the same way that Michael Moore always looms larger in Cannes, in every sense.

What's wrong with Air America? Well, the trick for Democrats is to be like WTWK's reception in Vermont—distorted and fuzzy. Distorted and fuzzy are the twin pillars of effective lefty strategy. Remember that favorite statistic of Bill Clinton—that twelve "kids" a day are killed by guns. When you examine the data, it turns out five-sixths of those 11.569 grade-school moppets are young adults between 15 and 19, many of whom are engaged in convenience-store holdups, drug deals, and other activities that, though potentially lucrative, have a tendency to go awry. But fuzziness (the inevitable invocation of "the children") makes the distortion difficult to question. And that's how the Left advances its agenda—muffling ruthless partisanship in fluffy talk.

Air America is distorted, but it's not fuzzy. Take Randi Rhodes, whom I hear more of than anybody else. She's on



Randi Rhodes, sweetheart of southwestern Quebec

from 3 to 7 Eastern, noon to 4 Pacific. That's a big chunk of the broadcast day. When you've got a four-hour show, you need to be able to nudge the story along—you can't be making the same complaint about Rumsfeld at 7 o'clock that you were making at 3. But Miss Rhodes doesn't seem to know enough to be able to advance the narrative. She has a gay assistant, and the other day she was speaking highly about the attractiveness of his rear end. This being radio, we're obliged to take her word for it. But up at the other end the gay assistant leaves a lot to be desired: He doesn't seem to be able to mine the Internet for those little items that effective radio hosts use to refresh their take on the issues.

The other day she observed that Republicans are the way they are because they don't get enough sex. This seems an odd observation from a host who'd spent much of the previous hour complaining that she wasn't getting enough herself. The brave few who called in seemed motivated to do so by a gallant urge to remedy this deficiency rather than by any insights into the issues under debate. One fellow went on to compare what America was doing in Iraq with the bombing of Dresden, and Miss Rhodes then explained that the Allies had bombed Dresden after the end of World War II, which suggests she may have been reading the grade-school history primer back to front. The caller then went on to compare Bush and 9/11 with Hitler and the burning of the Reichstag. "Kinda sorta," said Randi.

Kinda sorta. What did she mean? Was she really lending credence to the idea that Bush was behind September 11th? Or was she bluffing, stalling for time till the gay guy could find a reference book with this Reichstag thingy in it?

It's a good thing Air America is such a flop or it would cause serious problems for the Democratic party. Miss Rhodes, for example, has been urging those called up for Iraq to refuse to go—to desert, in other words—which, if I understand his nuances, isn't exactly on message with John Kerry.

Perhaps one notices this more when tootling along the autoroute in a province that's still home to many graying pony-tailed draft dodgers from last time round. Indeed, in its combination of whiny victim complex and smug Bush-moron jokes, Air America sounds far more Canadian than the CBC. I appreciate that "Air America! Nobody covers southwestern Quebec like we do!" is probably not what their promotions guys foresaw in the original marketing strategy, but I offer it in a friendly spirit, and in hopes that they'll extend the benefits of their toll-free number to my fellow Quebeckers. I heard the same guy from Long Island calling on successive days in May, so it couldn't hurt to vary the diet with Yvan from Trois-Rivières. *Allons-y*, Air America! **NR**

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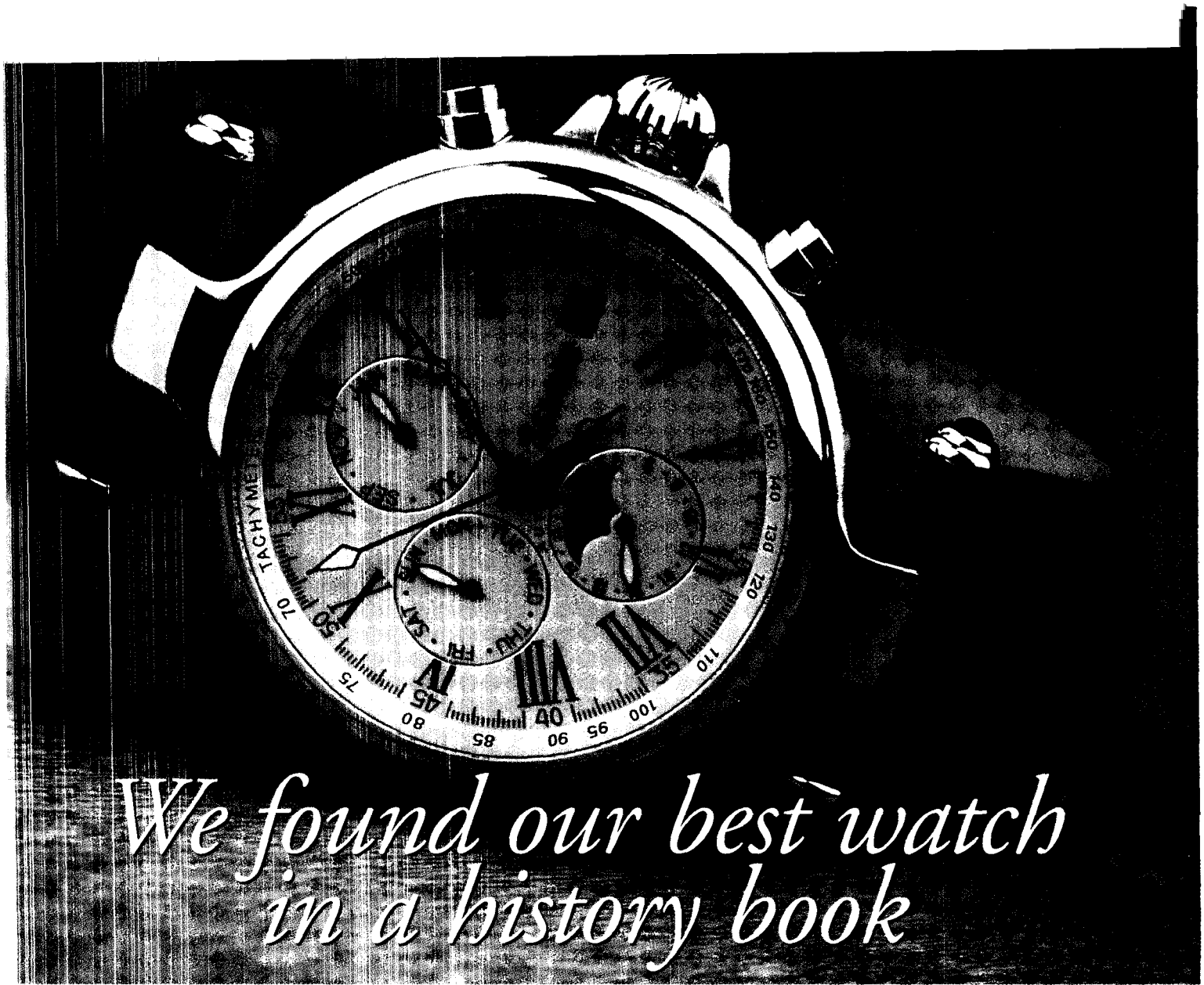

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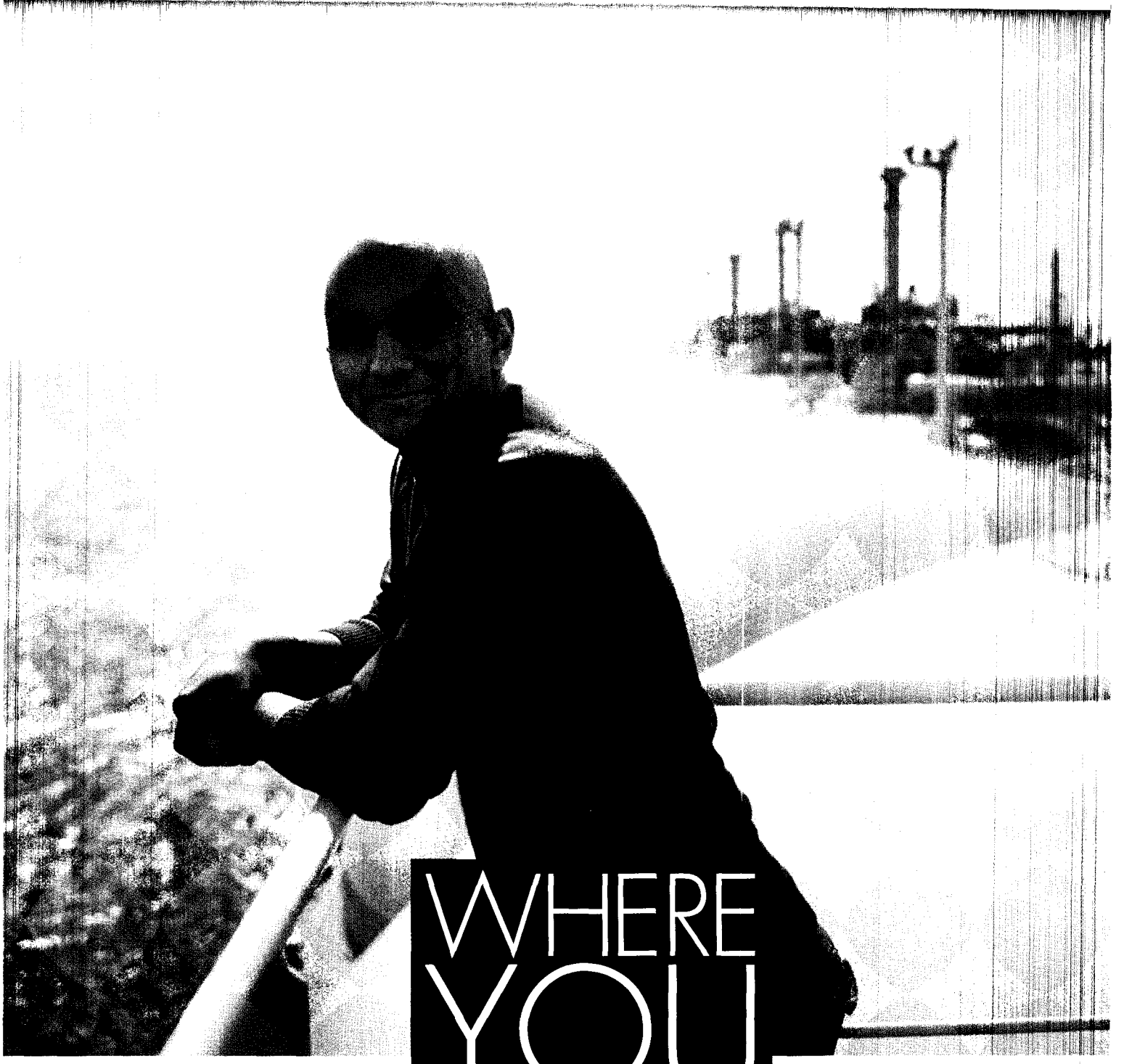

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